

Cape Coral Special Planning & Zoning Commission/Local Planning

Agency



AGENDA

Wednesday, October 17, 2018

9:00 AM

Council Chambers

1. CALL TO ORDER

A. Chair Read

2. MOMENT OF SILENCE

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL

A. Bennie, Marker, Marmo, Peterson, Ranfranz, Read, Slapper and Alternates O'Connor and Stevens

5. BUSINESS

6. PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

A. Land Development Code Updates - ORDINANCE 35-18 - continuation

WHAT THE ORDINANCE ACCOMPLISHES:

An ordinance repealing Articles I-X and XII of the City of Cape Coral Land Use and Development Regulations and adopting Article 1-10, 12 and 13 of the new City of Cape Coral Land Development Code. Re-write Updates.

NOTE: This is a Public Hearing. The public are welcome and encouraged to provide input.

B. Future Land Use Map (Draft) - Continuation

NOTE: This is a Public Hearing. The public are welcome and encouraged to provide input.

7. CITIZENS INPUT

8. OTHER BUSINESS

9. DATE AND TIME OF NEXT MEETING

- A. Regular Meeting November 7, 2018 at 9:00 a.m. in Council Chambers

10. ADJOURNMENT

In accordance with the Americans with Disabilities Act and Florida Statutes 286.26, persons needing a special accommodation to participate in this proceeding should contact the City Clerk's Department whose office is located at Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida; telephone 1-239-574-0530 for assistance, if hearing impaired, telephone the Florida Relay Service Numbers, 1-800-955-8771 (TDD) or 1-800-955-8700 (v) for assistance.

If a person decides to appeal any decision made by the Board/Commission/Committee with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

Robert Pederson, Planning Division Manager, Ext. 3169 (573-3169), rpederso@capecoral.net

ATTACHMENTS:

Description	Type
▢ LDC Summary	Backup Material
▢ Article 1- General Provisions	Backup Material
▢ Article 1 revisions received - 07-06-2018	Backup Material
▢ Article 1 - General Provisions - 8-10-2018	Backup Material
▢ Article 2 - Decision Making	Backup Material
▢ Article 2 revisions received - 07-06-2018	Backup Material
▢ Article 2 - Decision Making - 8-10-2018	Backup Material
▢ Article 3 - Development Review	Backup Material
▢ Article 3 revisions received - 07-06-2018	Backup Material
▢ Article 3 - Development Review - 8-10-2018	Backup Material
▢ Article 4 - Zoning Districts	Backup Material
▢ Article 4 revisions received - 07-06-2018	Backup Material
▢ Article 4 - Zoning Districts - 8-10-2018	Backup Material
▢ Article 5 - Development Standards	Backup Material
▢ Article 5 revisions received - 07-06-2018	Backup Material
▢ Article 5 - Development Standards - 8-10-2018	Backup Material
▢ Article 6 - Parking	Backup Material
▢ Article 6 - Parking - 8-10-2018	Backup Material
▢ Article 6 revisions received - 07-06-2018	Backup Material
▢ Article 7 - Signs	Backup Material
▢ Article 7 revisions received - 07-06-2018	Backup Material
▢ Article 7 - Signs - 8-10-2018	Backup Material
▢ Article 8 - Nonconformities	Backup Material
▢ Article 8 revisions received - 07-06-2018	Backup Material
▢ Article 8 - Nonconformities - 8-10-2018	Backup Material
▢ Article 9 - Floodplain Management	Backup Material
▢ Article 9 revisions received - 07-06-2018	Backup Material
▢ Article 9 - Floodplain - 8-10-2018	Backup Material
▢ Article 10 - Subdivisions	Backup Material
▢ Article 10 revisions received - 07-06-2018	Backup Material
▢ Article 10 - Subdivisions - 8-10-2018	Backup Material
▢ Article 11 - Definitions	Backup Material
▢ Article 11 - Definitions - 8-10-2018	Backup Material
▢ Article 12 - Building Code and EDS	Backup Material
▢ Article 12 revisions received - 07-06-2018	Backup Material
▢ Article 12 - Building Codes and EDS - 8-10-2018	Backup Material
▢ Article 13 - Reasonable Accommodations	Backup Material
▢ Article 13 revisions received - 07-06-2018	Backup Material
▢ Article 13 - Reasonable Accommodations - 8-10-2018	Backup Material

MEMORANDUM

**CITY OF CAPE CORAL
DEPARTMENT OF COMMUNITY DEVELOPMENT**

TO: Planning and Zoning Commission members

FROM: Robert H. Pederson, Planning Manager

DATE: May 10, 2018

SUBJECT: Ordinance No. 35-18 – New City of Cape Coral Land Development Code

Land Development Code Update Summary

This memo is to provide the Planning and Zoning Commission with an overview of the changes in the draft Land Development Code as we move forward to the public hearing stage of this effort beginning with first public hearing on May 16. A more detailed staff report and analysis of specific topics will be provided for future P&Z public hearings.

Process:

The City began the process of a total update (rewrite) of the Land Use and Development Regulations (LUDRs) in late 2015. The proposed regulations are being renamed as the Land Development Code (LDC) to distinguish the new code from the current LUDR.

The City contracted with Calvin Giordano and Associates for the early stages of this project. The Community Development Department has carried this work forward over the past year, with many changes to the draft along the way.

A series of public workshops with the Planning and Zoning Commission began in August of 2017. The May 16 public hearing will be the first of a series of public hearing by P&Z. Additional hearings are scheduled for June 6 and June 20, 2018. At the end of the public hearing process, the P&Z will make a recommendation to the City Council.

It is important to note that there are four separate aspects to adopting the new LDC. These are:

1. The text of the LDC;
2. A new zoning map;
3. Text amendments to the Comprehensive Plan; and
4. Changes to the Future Land Use Map.

For the May 16 public hearing, please note that the advertising did not list Article 11, Definitions, even though P&Z has received drafts of this article. We are currently reviewing the definitions with the City Attorney before holding a P&Z public hearing on this article.

Similarly, Article 6, Parking, does not yet show any changes to the residential parking requirements (e.g., parking of boats, commercial vehicles, etc.). The City Council discussed these requirements at their Committee of the Whole meeting on March 26. The City is currently evaluating whether to bring forward an ordinance changing these regulations as a separate matter before incorporating any such changes in the LDC.

Zoning Map

Adoption of a new LDC will also require adoption of a new zoning map for the entire City. The new map is required to reflect the names of the new zoning districts and any proposed changes to existing zoning. For example, all lots currently zoned R-1A or R-1B will be rezoned to the new R-1 zoning district.

Other zoning map changes are necessary because several zoning districts (e.g., Village, Highway Commercial, Marketplace Residential, Worship) are being eliminated and new zoning districts assigned to property in those districts. Staff is preparing a draft of the new zoning map, which will be scheduled for a public hearing before the Hearing Examiner. It should also be noted that the proposed zoning map does not include any rezone requests from individual property owners.

Organization of the LDC:

The LDC has been organized into 13 Articles:

- Article 1. General Provisions
- Article 2. Decision Making and Administrative Bodies
- Article 3. Development Review Process
- Article 4. Zoning Districts
- Article 5. Development Standards
- Article 6. Parking
- Article 7. Signs
- Article 8. Nonconformities
- Article 9. Floodplain Management
- Article 10. Subdivisions
- Article 11. Definitions
- Article 12. Building Code and EDS
- Article 13. Reasonable Accommodations & Dispute Resolution

Overall Changes

The new LDC is a total rewrite when compared to the existing LUDRs. As such, the changes are not shown in the underline/strikethrough format that is used for individual text amendments. It should also be noted that many requirements of the current code have not been substantially changed and have been carried forward in the LDC, although edited and reorganized for clarity.

Major changes are summarized below. The overall direction for the LDC is to:

- Simplify the language in the code where possible
- Address “community values issues” that are embodied in the current LUDR
- Reorganize the code and include more graphics
- Increase the number and types of permits that may be approved administratively
- Reduce the number of zoning districts by combining some similar districts, eliminating districts that are rarely or no longer used, and including new districts for Bimini Basin and Seven Islands.
- Eliminate the detailed NAICS system of classifying land uses and use broader categories of retail, office, and other land uses for greater flexibility
- Establish a Planned Unit Development zoning district that will replace the current PDP process
- Establish a process for “micro-cottage” developments
- Place all definitions in one location in the LDC

New Concepts in the LDC

Planned Unit Developments.

The LDC adds Planned Unit Developments (PUD). PUDs are a form of development entitlement that creates a zoning district tailored to a specific project. The PUD identifies uses and dimensional regulations such as setbacks and heights. A PUD will also have a Master Concept Plan that will provide a general plan of how the development will function and provide compatibility and consistency with the area. The Master Concept Plan will identify access points, landscape buffer, building locations etc. The PUD will provide a more efficient method for development projects and will provide a clear outline of what the development will look like. PUDs will replace the current system of Planned Development Projects (PDPs).

Micro Cottage Village Developments

This concept was brought forward after City Council direction was given to staff at a Committee of the Whole. Micro cottage Village Developments (MCVDs) provide a location for City residents who wish to reside on lots which are much smaller than the typical Cape Coral property. This housing type encourages efficient use of land, affordability, and energy conservation. Micro cottage housing allows for a higher density single family development than is normally allowed (8.8 du/acre). This is made possible

by smaller home sizes, clustered home sites, and parking and design standards. These units will be site built homes ranging from 600-1100 square feet. Minimum property size for this type of development is 3 acres. These developments do not include Tiny Houses on Wheels (THOW).

Accessory dwelling units / guest houses

Accessory dwelling units provide an opportunity add variety and housing choice in residential neighborhoods and can be an effective way to add affordable rental housing stock to existing neighborhoods. ADUs also provide options for residents to age in place or to live with or near family and caregivers, providing a flexible way to address family needs for additional housing. A guest house is similar to an ADU in that living quarters (e.g., a bedroom, bath, and living area) may be in detached accessory structure, but no kitchen is allowed.

Currently, ADUs and Guest Houses are not allowed in Cape Coral. The LDC contains draft regulations to allow ADUs and Guest Houses, subject to a number of standards. See Article 5, Sections 5.2.2 and 5.2.1

Regulations for mobile food trucks

Mobile food vendors are not currently allowed, although there are number of these in the City. The LDC includes regulations for this use. See Article 5. Section 5.10.13.

Comprehensive Plan Text and Map Amendments

To implement the new LDC, a number of text amendments to the Comprehensive Plan will be necessary. The reason for this is that the Comprehensive Plan has many references to specific zoning districts, which are being changed as part of the LDC. The new zoning districts in the LDC also need to be addressed in the Comprehensive Plan to establish which zoning districts(s) are consistent with each Future Land Use Designation.

There are also references to programs (such as a transfer of development rights) that will no longer be part of the LDC. The LDC also includes increases in allowable density for certain zoning districts that require changes to the Comprehensive Plan.

All Comprehensive Plan text or map amendments will be come to P&Z in the upcoming months for public hearing and the P&Z recommendation to the City Council.

Summary of Changes by Article

Article 1. General Provisions

No major changes from various provisions of the current LUDR. These requirements have been organized into one article and edited for clarity.

Article 2. Decision Making and Administrative Bodies

No major changes from various provisions of the current LUDR. These requirements have been organized into one article and edited for clarity.

Article 3. Development Review Process

These requirements have been updated for clarity, consistency, and reorganized. The number of administrative approvals have increased (e.g., model homes). Please refer to Table 3.1.3 that illustrates the types of development approval (administrative, quasi-judicial, and legislative), the recommending authority and decision maker for each type of permit, and the public notice requirements for each permit type.

Article 4. Zoning Districts

This article establishes and describes all zoning districts within the City (see Chapter 4.1), and establishes specific regulations within each zoning district (see Chapter 2).

This article also contains the tables showing the classification of land uses, which district(s) each land use is allowed in, and the use hierarchy for the approval process for each use. The setback, height, and other dimensional standards are also contained in Article 4.

General Comparison of old vs. new zoning districts:

Old Zoning District	New Zoning District
Single-Family Residential (R-1A or R-1B)	Single-Family Residential (R-1)
Residential Development (RD)	Single-Family Residential (R-1) Multi-Family Residential Low (RML) Multi-Family Residential Medium (RMM)
Residential Estate (RE)	Residential Estate (RE)
Residential Receiving (RX)	Single-Family Residential (R-1)
Agricultural (A)	Agricultural (A)
Pedestrian Commercial (C-1)	Commercial (C)
Professional Office (P-1)	Professional Office (P)
Thoroughfare Commercial (C-3)	Commercial (C)
Professional Business (P-2) Never mapped	
Light Industrial (I-1)	Industrial (I)
Village (VILL)	Commercial Corridor (CC)
Corridor (CORR)	Commercial Corridor (CC)
Institutional (INST)	Institutional (INST)
Worship (W)	Single-Family Residential (R-1) or Commercial (C)
Marketplace Residential (MR)	Multi-Family Residential Low (RML) Multi-Family Residential Medium (RMM) Commercial (C) Professional Office (P)
Preservation (PRES)	Preservation (PRES)

South Cape (SC)	South Cape (SC) Mixed-Use Bimini (MXB)
High Intensity Commercial Industrial (HICI) Never Mapped	

Multi-family zoning

One important change to the zoning districts is established of two separate districts for multi-family development. The current LUDR has one multi-family district, R-3. Over time, most of the current R-3 zoning has been or is currently being developed with duplexes and not larger multi-family projects. In 2016, the City received the results of a housing study, which identified a critical need for nearly 1,500 multi-family dwelling units per year for the next five years, just to meet the current demand for affordable and workforce housing. Duplexes do not meet these needs. Accordingly, the LDC attempts to address this need by creating two multi-family districts; RML and RMM.

RML is a low density multi-family district and will be mapped where the predominate develop pattern is existing duplexes. Larger multi-family developments will be permitted in this district.

The RMM district will be mapped on larger parcels of at least one acre. Duplexes or single-family homes will be prohibited in the RMM district to facilitate larger scale projects and not have RMM zoned areas consumed with lower density residential products.

The densities for the RML and RMM is 25 dwelling units per acre, which is an increase over the current maximum density of 16 dwelling units per acre.

Neighborhood Commercial (NC)

The City has developed a mixed use, form-based zoning district known as the Neighborhood Commercial zoning district. Development types, densities, and intensities are based on the size of the NC development tract. This district will help provide an urban form for specific locations on major roadways.

Mixed Use Seven Islands (MX7)

The City has developed a new zoning district consistent with the Seven Islands and NW Cape Vision Plan approved by Council in 2016. The Mixed-Use Seven Islands district is designed to permit a mix of residential and commercial uses, a park, and a marina to be consistent with Vision Plan. The maximum residential development is 995 dwelling units, with 110,000 square feet of commercial space, of which 40,000 is a community center.

Mixed Use Bimini (MXB)

In preparation for redevelopment of the Bimini Basin, a separate zoning district for the Bimini Basin area has been included. The Mixed-Use Bimini Basin zoning district permits

mixed-use development in an urban form and increases residential density by-right to 50 dwelling units per acre (75 dwellings/acre under certain circumstances).

Use Hierarchy

The new LDC has created two additional use types of zoning approval processes. These are identified in a Land Use Hierarchy. Land uses with Specific Regulations (P*) and Conditional Uses (CU) will be utilized along with Permitted Uses and Special Exception Uses. These uses will provide a set of regulations or conditions that will be required of the use dependent on the zoning district. The current LUDR either permits uses without any regulations or requires applicant to apply for a special exception which requires a public hearing. The benefit of the P* and CU uses is that applicants will no longer be required to apply for a special exception for many uses, such as model homes. The P* and CU uses will provide a more streamlined approach by eliminating a public hearing for a SE and will provide the community a clear understanding of how a project will be developed for P* and CU uses.

Article 5. Development Standards

Article 5 contains the development standards for specific land uses and activities in one location. In the current LUDR, these regulations are scattered throughout several articles.

Marine Improvements: Article 5, Chapter 4

Key changes:

1. Formatting – have moved all defined terms to Article 11 (Definitions).
2. Increased the distance in which a marine improvement can extend into a waterway (25% of the waterway width or 40 feet, whichever is less). This increase is intended to eliminate the need for many Deviations for marine improvements.
3. Increased the maximum dock surface area for marine improvements.
4. Eliminated the deviation process and now require a variance for owners seeking additional dock surface area beyond that allowed by code and the new standards allowing larger marine improvements.

Landscaping: Article 5, Chapter 5

Key changes:

1. Doubles the landscaping required for duplexes when compared to the current LUDRs.
2. Slightly reduces minimum buffer widths for commercial, corridor, professional, or institutional zoned sites abutting residential zoned properties. The regulations now focus on the quantity and type of landscaping rather than the width of the buffer.
3. Eliminates a requirement to have a wall to screen off-street parking areas in the South Cape District.
4. Allow administrative approval of certain deviations to the landscaping requirements.

Nonresidential Design Standards: Article 5, Chapter 8

Key changes:

1. Formatting – moved SC architectural standards from the SC District to Chapter 8.
2. Formatting – moved screening requirements from the nonresidential design standards to a separate LDC chapter (Chapter 7).
3. Explicitly exempted several building types from the nonresidential design standards.
4. Increases the minimum glazing requirement for buildings in order to eliminate blank walls.
5. Simplifies and clarifies the design requirements for the sides of a building.
6. Establishes a minimum standard for pitched roofs.
7. Allow administrative approval of certain deviations to design standards

Article 6. Parking

- Parking requirements are eased a bit, particularly for large retail uses.
- Community value parking issues. Any changes to current practice pending Council direction (February COW)

Article 7. Signs

- The current sign code was adopted in 2013 with a minor revision in 2014
- No substantive changes are proposed to maintain integrity of regulations approved in 2013 that were crafted by a diverse group of stakeholders
- Changes are proposed are to be consistent with “Gilbert” court decision, which established that sign regulations must be content neutral
- Format changes are included to use tables rather than verbiage
- Minor changes to sizes of freestanding signs for multi-tenant sites

Article 8. Nonconformities

- Allows a bit more flexibility in expanding a nonconforming structure (allows additions provided the degree of nonconformity is not increased).
- Single-family structures and duplexes that are non-conforming due to a city-initiated comprehensive plan amendment will continue to be treated as a conforming structure so long as the property owner who owned the property at the time of amendment continues to own the property.

Article 9. Floodplain Management

- Virtually no change from current code
- This maintains our Community Rating System discount for flood insurance policies

Article 10. Subdivisions

- Preliminary subdivisions will now be an administrative approval
- A PDP will not be required for new subdivisions
- Final Plats continue to require Council approval (required by F.S.)

Article 11. Definitions

- Definitions – The Definitions section has been revised to provide clean and concise definitions that are more up-to-date than the previous LUDR. New definitions have been added to reflect new uses in the LDC.
- Combines all definitions in one article, with certain definitions grouped together by subject (e.g., marine improvements, signs, and floodplain definitions)
- A work in progress

Article 12. Building Code and EDS

- No substantive changes
- This article was revised earlier this year to reference the latest Florida Building Code
- Note: The EDS is incorporated by reference. If PW has made past changes made without an ordinance process or wants to include new changes, a separate ordinance would be required

Article 13. Reasonable Accommodations

- The City adopted the ordinance for reasonable accommodations in 2016. There are no substantive changes to this ordinance.

What is not changing in the LDC?

Noise standards – At this time, there are no changes to the City noise ordinance in the Code of Ordinances or the LDC. However, the proposed Mixed-Use Bimini zoning district does have performance standards for sound amplification devices (e.g. speakers). These standards require that amplified sound be oriented away from surrounding residential uses. The City will need to address the noise ordinance in future, as a separate amendment to the Code of Ordinances.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

1 **Sections:**

2

3 **Section 1.1.** Title

4 **Section 1.2.** Authority

5 **Section 1.3.** Purpose and Intent

6 **Section 1.4.** Jurisdiction and Applicability

7 **Section 1.5.** Compliance with regulations

8 **Section 1.6.** Violations, enforcement, and penalties

9 **Section 1.7.** Buildings under construction

10 **Section 1.8.** Outstanding permits

11 **Section 1.9.** Time limitation of approvals

12 **Section 1.10.** Annexed lands

13 **Section 1.11.** Comprehensive Plan and Future Land Use Map

14 **Section 1.12.** Official Zoning Map

15 **Section 1.13.** Transitional rules

16 **Section 1.14.** General rules of construction

17 **Section 1.15.** Measurements

18 **Section 1.16.** Interpretation of zoning district boundaries

19 **Section 1.17.** Severability

20

21 **Section 1.1. Title.**

22

23 This Code shall be known as and referred to as the Land Development Code (“LDC” or “these regulations”
24 or the “Code”) of the City of Cape Coral, Florida.

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26 **Section 1.2. Authority.**

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28 These regulations are enacted pursuant to the requirements and authority of Section 163.3161 et seq.,
29 Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act),
30 the Charter of the City of Cape Coral, and the powers and authority in Chapters 60, 162, 166, 171, 177,
31 286, 380, and 823, Florida Statutes, as amended.

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33 **Section 1.3. Purpose and Intent of the City of Cape Coral Land Development Code.**

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35 The purpose of the City of Cape Coral Land Development Code is to implement the Comprehensive Plan
36 of the City pursuant to Chapter 163, Florida Statutes for the protection and promotion of the safety,
37 health, comfort, appearance, and general welfare of the City and its inhabitants and specifically for the
38 following intent:

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40 A. Continue to foster community pride and a sense of stewardship in the City;

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42 B. Preserve and implement the comprehensive plan;

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44 C. Ensure the application and administration of these regulations continues to improve the overall
45 quality of life and promote development of the City;

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**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

- 47 D. Establish zoning districts as a means of achieving unified civic design and proper relationship between
48 the uses of land by regulating the location and use of buildings and other structures;
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- 50 E. To minimize and reduce conflicts among various land uses through the application of regulations
51 designed to assure harmonious relationships among land uses;
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- 53 F. To ensure safe and convenient traffic circulation, adequate utilities, recreation areas, and the
54 development of economically stable and healthful neighborhoods;
55
- 56 G. To prevent periodic and seasonal flooding by providing flood control and drainage facilities;
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- 58 H. To discourage haphazard, premature, uneconomical, or scattered land development; and
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- 60 I. To ensure that the citizens and taxpayers of the city will not have to bear the costs resulting from
61 haphazard land development or the lack of adequate and necessary physical improvements incidental
62 to land development.
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Section 1.4. Jurisdiction and applicability.

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- 66 A. These regulations shall govern the development and use of land, buildings, and structures within the
67 municipal boundary of the City.
68
- 69 B. No building, structure, water, or land shall be used, occupied, or developed unless in conformity with
70 all provisions of the zoning district in which it is located, all other applicable regulations, and all
71 development approvals.
72

Section 1.5. Compliance with regulations.

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- 74
- 75 A. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered
76 except in conformance with:
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- 78 1. The applicable zoning district regulations;
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- 80 2. The bulk, area, and dimensional regulations of the zoning district;
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- 82 3. The off-street parking and loading regulations for the use in the building in question;
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- 84 4. The floor area regulations of the zoning district;
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- 86 5. The established flood criteria, as indicated on the most current edition of the federal flood
87 insurance rate maps and the requirements in Article 9 applicable to the development site; and
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- 89 6. All other applicable laws, rules, and regulations.
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- 91 B. No building shall be erected or enlarged after the effective date of these regulations, which reduces
92 any level of service standard established in the City of Cape Coral adopted comprehensive plan.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

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Section 1.6. Violations, enforcement, and penalties.

The procedures for enforcement and penalties for violations of this Code are set forth in Chapter 2, Article 5, Divisions 3 and 4 of the City of Cape Coral Code of Ordinances. The provisions of this Code are supplemental to any other procedures and remedies available to the City of Cape Coral. Nothing contained in this Code prohibits the City of Cape Coral from enforcing its codes or ordinances by other Code Enforcement provisions of the City of Cape Coral Code of Ordinances or other applicable law.

Section 1.7. Buildings under construction.

Any building or structure for which a lawful building permit has been issued prior to the effective date of this article may be completed and used in accordance with the plans and specifications upon which such building permit was granted, provided construction is completed within the life of the building permit.

Section 1.8. Outstanding permits.

Where there are outstanding and valid building permits authorizing construction of buildings, structures, additions, or alterations, the use or construction of which do not conform to the requirements of this article, such permits shall be valid for the life of the permit.

Section 1.9. Time limitation of approvals.

Time limits for permits issued under this Code are specified for each type of development permit. Conditions of approval attached to permit approvals may establish additional time limits on the life of a permit or establish specific timeframes for certain actions.

Section 1.10. Annexed lands.

In accordance with FS 171.062, all land annexed in to the City of Cape Coral shall retain the Lee County Future Land Use and Zoning Designations until the City Council adopts a comprehensive plan amendment that includes the annexed area and adopts an ordinance establishing a zoning district for the annexed area.

Section 1.11. Comprehensive Plan and Future Land Use Map.

The Comprehensive Plan and Future Land Use Map of the City of Cape Coral are the official statements of policy for the City regarding the use of land. All use or development of land undertaken pursuant to these regulations shall be consistent with the Comprehensive Plan and the Future Land Use Map.

Section 1.12. Official Zoning Map.

- A. The Official Zoning Map is established and incorporated into these regulations by this reference. The Official Zoning Map shows the boundaries of all Zoning Districts as adopted by the City Council pursuant to the procedures of these regulations.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

- 139 B. The Official Zoning Map shall be the official record of zoning status of land within the city. The Official
140 Zoning District Map shall be maintained by the city electronically. The city is divided into districts, or
141 zones, as provided by this ordinance. The electronic format of the map will reside within the city
142 Geographic Information System (GIS) as the zoning layer and shall be maintained by the Department
143 of Community Development - Planning Division. The map will be updated on a continuous basis
144 following approval of zoning changes by City Council. The electronic format of the map will be
145 viewable via the Internet and paper copies can be produced on demand.
146
- 147 C. Pursuant to Laws of Fla. Ch. 78-540, § 8, the city shall exercise extraterritorial zoning powers within
148 an area extending 600 feet into the tidal waters adjacent to the corporate city limits. All such areas
149 shall have the same zoning as the adjacent uplands.
150
- 151 D. The Official Zoning Map, as amended from time to time, shall be kept on file and made available for
152 public reference in the Office of the City Clerk and the Community Development Department.
153 Amendments to zoning on the Official Zoning District Map shall be consistent with the adopted Cape
154 Coral Comprehensive Plan, including the Future Land Use Map and its accompanying text.
155 Amendments shall be made on or after the effective date of such zoning change. The Director of the
156 Department of Community Development shall ensure that amended zoning district boundaries are
157 accurately placed on the zoning map. The City Clerk shall keep records on file which identify the official
158 action by which a map amendment was made, the date of such action, the land area affected and the
159 date of posting.
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- 161 E. Should the map or any portion thereof become damaged, destroyed, or lost the City Council is
162 authorized, by ~~ordinanceresolution~~, to replace the map or damaged portion and the new map shall
163 supersede the one replaced. The new map may correct drafting or other errors, but no replacement
164 shall have the effect of changing the official zoning status of property unless the prior map has been
165 totally destroyed. The City Clerk shall preserve any records relating to its adoption and amendment.
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- 167 F. Unauthorized changes. Substantial changes of the nature affecting the zoning of property is strictly
168 prohibited and unlawful, unless in conformity with the requirements and procedures of this ordinance
169 or applicable law.
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171 **Section 1.13. Transitional rules.**
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- 173 A. Existing unlawful uses, lots, and structures. A structure, lot, or use not lawfully existing at the time of
174 the adoption of these regulations is lawful only if it conforms with all of the requirements of these
175 regulations. All other violations of prior regulations of the City as of the effective date of this ordinance
176 shall continue to be violations and shall not be considered to be legal nonconformities under this code
177 unless such violation(s) becomes lawful by adoption of this code.
178
- 179 B. Existing approved uses. An existing use which is lawful on the date of adoption of these regulations,
180 whether as a “permitted use”, or a “special exception use” in the zoning district in which it is located,
181 shall not be deemed nonconforming solely because the procedure for approval has changed through
182 the adoption of these regulations.
183

**CITY OF CAPE CORAL, FLORIDA
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- 184 C. Previously granted variances. Unless becoming conforming pursuant to Subsection A, above, all
185 variances granted under any prior edition of the Land Development Code and which are still in effect
186 upon adoption of these regulations shall remain in full force and effect, including any conditions
187 attached thereto, and the owner may proceed to develop the property in accordance with the
188 approved variance.
189
- 190 D. Previously approved special exceptions. All special exceptions approved prior to the adoption of these
191 regulations, and any conditions attached thereto, shall remain in full force and effect, and the owner
192 may proceed to develop the property in accordance with the previous approval. However, if
193 construction has not commenced before the approval expires or if the approval is abandoned, the
194 provisions of these regulations shall govern.
195
- 196 E. Prior zoning districts. Unless provided otherwise on the Official Zoning Map, upon adoption of these
197 regulations, all existing zoning classifications shall be reclassified with one of the zoning classifications
198 set forth in Article 4, Zoning Districts, as follows:
199
- 200 1. Residential zoning districts.
201
 - 202 a. Single-family residential (R-1)
 - 203 b. Multi-family residential low density (RML)
 - 204 c. Multi-family medium density (RMM)
 - 205 d. Residential Estate (RE)
 - 206 e. Agriculture (A)
 - 207 2. Non-residential zoning districts.
208
 - 209 a. Commercial (C)
 - 210 b. Commercial Corridor (CC)
 - 211 c. Industrial (I)
 - 212 d. Institutional (INST)
 - 213 e. Preservation (PV)
 - 214 f. Professional (P)
 - 215 3. Mixed Use zoning districts.
216
 - 217 a. Neighborhood Commercial (NC)
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- 230 b. Mixed Use Bimini (MXB)
- 231
- 232 c. Mixed Use Seven Islands (MX7)
- 233
- 234 d. South Cape (SC)
- 235
- 236 e. Planned Unit Development (PUD)
- 237

238 F. Prior approved PDP projects. All planned development projects (PDPs) approved prior to the adoption
239 of these regulations, and any approved site plan and conditions attached thereto, shall remain in full
240 force and effect. All such approved PDPs shall hereafter be deemed a permitted and approved
241 Planned Unit Development under this code, and the owner may proceed to develop the property in
242 accordance with the previous approval. All previously approved PDP sites are classified in the PUD
243 zoning district under this Code. If substantial construction pursuant to the PDP approval has not
244 commenced before the approval expires or if the approval is abandoned, the provisions of these
245 regulations shall govern.

246
247 **Section 1.14. General rules of construction.**

248
249 For the purposes of these regulations, the following rules of construction apply:

- 250
- 251 A. These regulations shall be deemed the minimum requirements for the promotion of the health,
252 safety, order, convenience, and general welfare of the community.
- 253
- 254 B. These regulations shall be construed to achieve the purposes and intent for which they are adopted.
- 255
- 256 C. Nothing in these regulations is intended to repeal any easement, covenant, deed restriction, or other
257 private agreement; however, where these regulations are more restrictive or impose higher standards
258 or requirements than such easement, covenant, deed restriction, or other private agreement, these
259 regulations shall govern.
- 260
- 261 D. In the event of a conflict:
- 262
- 263 1. Between the text of these regulations and any caption, figure, illustration, table, or map, the text
264 of these regulations shall control;
- 265
- 266 2. Between a chart and an illustration, the chart shall control. All illustrations included in these
267 regulations are for illustrative purposes only;
- 268
- 269 3. When limitations, restrictions, or standards apply to an individual lot, use, or structure the more
270 restrictive provisions shall apply; and
- 271
- 272 4. Between these regulations and any federal, state, or county law or regulation which pre-empts
273 local regulation, the federal, state, or county law or regulation shall apply.
- 274

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- 275 E. Words and phrases shall be construed according to the rules of grammar and according to the
276 common and approved usage. Technical words and terms that are used and that may have a particular
277 meaning based on law shall be defined according to that meaning.
278
- 279 F. The terms "Ordinance," "Code," "Law," "Statute," "Title," and "Act" are understood to include the
280 term "as amended", unless the context clearly indicates otherwise. References to technical manuals,
281 resource materials, code references, the comprehensive plan, and similar documents are understood
282 to include the term "as amended" unless the context clearly indicates otherwise.
283
- 284 G. The words "shall," "must," and "will" are mandatory in nature, implying an obligation or duty to
285 comply with the particular provision.
286
- 287 H. The word "or" is alternative in nature.
288
- 289 I. The word "may" is permissive in nature.
290
- 291 J. The word "including" shall be construed to include the phrase "but not limited to."
292
- 293 K. Words used in the present tense include the future tense.
294
- 295 L. The singular number includes the plural number and the plural, the singular.
296
- 297 M. Words utilizing the masculine gender include the feminine gender and use of the feminine gender
298 includes the masculine.
299
- 300 N. The words "used" and "occupied" as applied to any land or building shall be construed to include the
301 words "intended, arranged, or designed to be used or occupied."
302
- 303 O. The word "herein" means "these regulations."
304
- 305 P. The words "building" or "structure" includes any of its parts.
306
- 307 Q. The word "person" includes an individual, a corporation, a partnership, an incorporated association,
308 or any other similar entity.
309
- 310 R. The word "owner" includes his or her agents or authorized representatives unless the context clearly
311 indicates otherwise.
312
- 313 S. Any act authorized by these regulations to be carried out by a specific official or agency of the City is
314 authorized to be carried out by a designee of such official or agency, unless the context clearly
315 indicates otherwise.
316
- 317 T. The time within which an act is to be done shall be computed by excluding the first and including the
318 last day; if the last day is a Saturday, Sunday, or a legal holiday the timeframe shall be extended to the
319 next working day.
320

**CITY OF CAPE CORAL, FLORIDA
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ARTICLE 1 - GENERAL PROVISIONS**

321 **Section 1.15. Measurements.**

322

323 A. Number of Residential Units Allowed (Density). The maximum number of residential units allowed on
324 a site is determined by multiplying the maximum density allowed under the Comprehensive Plan by
325 the parcel size (i.e., allowable comp plan density (x) parcel size), except when the zoning district of a
326 parcel permits lot sizes that equate to a smaller maximum density for that parcel.

327

328 B. Distance requirements. Unless otherwise provided herein, distances shall be measured in accordance
329 with the following:

330

331 1. When the LDC requires a distance between uses or developments on different development
332 parcels or there are LDC requirements for a development within a certain distance from another
333 development parcel, the distance shall be measured using a straight-line measurement from the
334 closest point of one parcel to the closest point of the parcel(s) involved.

335

336 2. When the LDC imposes requirements on a development within a certain distance of a zoning
337 district, the distance shall be measured using a straight-line measurement from the closest point
338 of a zoning district boundary to to the closest point of the parcel(s) involved.

339

340 When there is a distance requirement between a structure or building on the same development
341 site, the distance shall be measured from the exterior of the buildings or structures, using a
342 straight-line measurement from the closest points between the structures being measured.

343

344 3. When a portion of a parcel or development site lies within a certain distance of a zoning district
345 or development and the LDC imposes requirements or regulations on a development or parcel
346 within that distance, the requirements and regulations shall be applicable to the entire parcel or
347 development site and not just to the portion within the specified distance.

348

349 C. Floor area, gross. The sum of the floor areas of all floors of a building or structure from the exterior
350 face of exterior walls, or from the centerline of a wall separating two buildings, excluding covered
351 parking, loading areas, or parking garages. When an entire level of a building or structure is below
352 ground as measured from floor to floor or ceiling slab to ceiling slab, the floor area of this level shall
353 be excluded from the calculation of gross floor area. Unless otherwise specified, gross floor area for
354 food service establishments shall also include any outdoor or patio floor area on the property used or
355 designed for customer service.

356

357 D. Floor area, net. The total floor area of all floors of a building shall be measured by excluding from the
358 gross floor area stairwells and elevator shafts, equipment rooms, interior vehicular parking, loading,
359 and all floors below the first or ground floor, except when such areas are used or intended to be used
360 for human habitation or service to the public.

361

362 E. Floor area ratio (FAR). The floor area ratio is measured by the net floor area of all buildings or
363 structures on a lot, parcel, or site divided by the total lot, parcel, or site area.

364

365 F. Fractional measurements.

366

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ARTICLE 1 - GENERAL PROVISIONS**

- 367 1. When units or measurements result in a requirement of a fraction, any such fraction equal to or
368 greater than exactly fifty percent (50%) shall require the full requirement, unless otherwise
369 provided for in these regulations.
370
- 371 2. Density fractional measurements. When calculating density, any fraction of a unit shall be
372 rounded down to the nearest whole number, unless otherwise provided for in these regulations.
373
- 374 G. Grade.
- 375
- 376 1. When used to measure habitable structures, grade shall be the highest elevation of:
- 377
- 378 a. The natural elevation of the ground when compared to abutting properties. Natural elevation
379 of the ground when compared to abutting properties, shall be derived by selecting a minimum
380 of two (2) elevation points on each adjoining property line and calculating the average of all
381 the selected elevation points. This calculation will determine the reference plane for
382 calculating the height of habitable structures only;
383
- 384 b. The base flood elevation requirement for the lowest floor as shown on the flood insurance
385 rate map published by the Federal Emergency Management Agency (FEMA);
386
- 387 c. Eighteen (18) inches above the FEMA base flood elevation requirement for the bottom of the
388 Lowest Horizontal Structural Member (LHSM) of the lowest floor; or
389
- 390 d. Eighteen (18) inches above the State of Florida, Department of Environmental Protection
391 minimum requirement for the bottom of the LHSM of the lowest floor. For purposes of the
392 definition of grade, the term floor shall be defined as the top of the lowest inside surface of
393 an enclosed area in a building, including the basement. For example, the top of the slab in a
394 concrete slab construction or the top of wood flooring in wood frame construction. The term
395 does not include an unfurnished or flood resistant enclosure, usable solely for parking of
396 vehicles, building access, or storage in an area other than a basement area.
397
- 398 2. When used to measure non-habitable accessory structures, grade shall be the finished ground
399 surface at the base of the accessory structure being measured. If a retaining wall elevates the
400 non-habitable accessory structure, grade shall be the finished ground surface at the base of the
401 retaining wall.
402
- 403 H. Building Height. The height of buildings shall be measured from the lowest finished floor elevation to
404 the lowest point of the highest horizontal eave or the top of the roof slab for structures with flat roofs.
405 Church spires and steeples, chimneys, parapet walls, machine rooms, elevator towers, and similar
406 features necessary to the design and function of a building but not designed for human occupancy,
407 shall not be included in the measurement of overall building height.
408
- 409 I. Lot coverage. That portion of a lot that is covered by all principal and accessory buildings.
410
- 411 J. Lot depth. The depth of a lot is the distance measured from the mean direction of the side lines of the
412 lot from the midpoint of the street lot line to the midpoint of the opposite main rear line of the lot.

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413
414 K. Lot width. The horizontal distance between the side lines of a lot measured at the front building
415 setback line, or at the front property line where no front setback is required.
416

417
418 L. Setback. A setback is the minimum horizontal distance between a structure and a property line.
419 Setbacks shall extend and be measured perpendicular and inward from the respective property lines.
420

421 **Section 1.16. Interpretation of zoning district boundaries.**
422

423 Zoning district boundaries are usually depicted along streets, alleys, shorelines, property lines, or
424 extensions thereof. Where an uncertainty exists with respect to the boundaries of districts as shown on
425 the Official Zoning Map, the following rules shall apply:
426

427 A. Centerlines. Boundaries indicated as approximately following the centerlines of streets, highways, or
428 alleys shall be construed to follow such centerlines;
429

430 B. Lot, section, and tract lines. Boundaries indicated as approximately following platted lot lines shall be
431 construed as following such lot lines;
432

433 C. Political boundaries. Boundaries indicated as approximately following City limits shall be construed as
434 following City limits;
435

436 D. Shorelines. Boundaries indicated as following shorelines shall be construed to follow such shorelines.
437 In the event of a change in the shoreline, the zoning district boundary shall be construed as moving
438 with the actual shoreline. Boundaries indicated as approximately following the centerline of streams,
439 rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;
440

441 E. Vacations. Whenever any street, alley, or other public way is vacated by official action of the City
442 Council, the zoning district of the property abutting each side of the street, alley, or public way shall
443 be automatically extended to the center of such vacation and all area included within the vacation
444 shall thereafter be subject to all regulations of the extended districts;
445

446 F. Filled lands. Where land is built-up by fill upon areas formerly submerged under water, the district
447 regulations applying to the land immediately adjoining such built-up land shall be automatically
448 extended thereto;
449

450 G. Parallel lines. Boundaries indicated as parallel to or extensions of features indicated in subsections A
451 through F of this section shall be so construed. Distances not specifically indicated on the official
452 zoning map shall be determined by the scale of the map;
453

454 H. Bisecting lines. Where district boundary lines approximately bisect blocks, the boundaries are the
455 median line of such blocks, between the centerlines of boundary streets;
456

457 I. Uncertainties. Where physical or cultural features existing on the ground are at variance with those
458 shown on the official zoning map or if any other uncertainty exists, the Director of Community

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ARTICLE 1 - GENERAL PROVISIONS**

459 Development shall interpret the intent of the official zoning map as to the location of district
460 boundaries; and

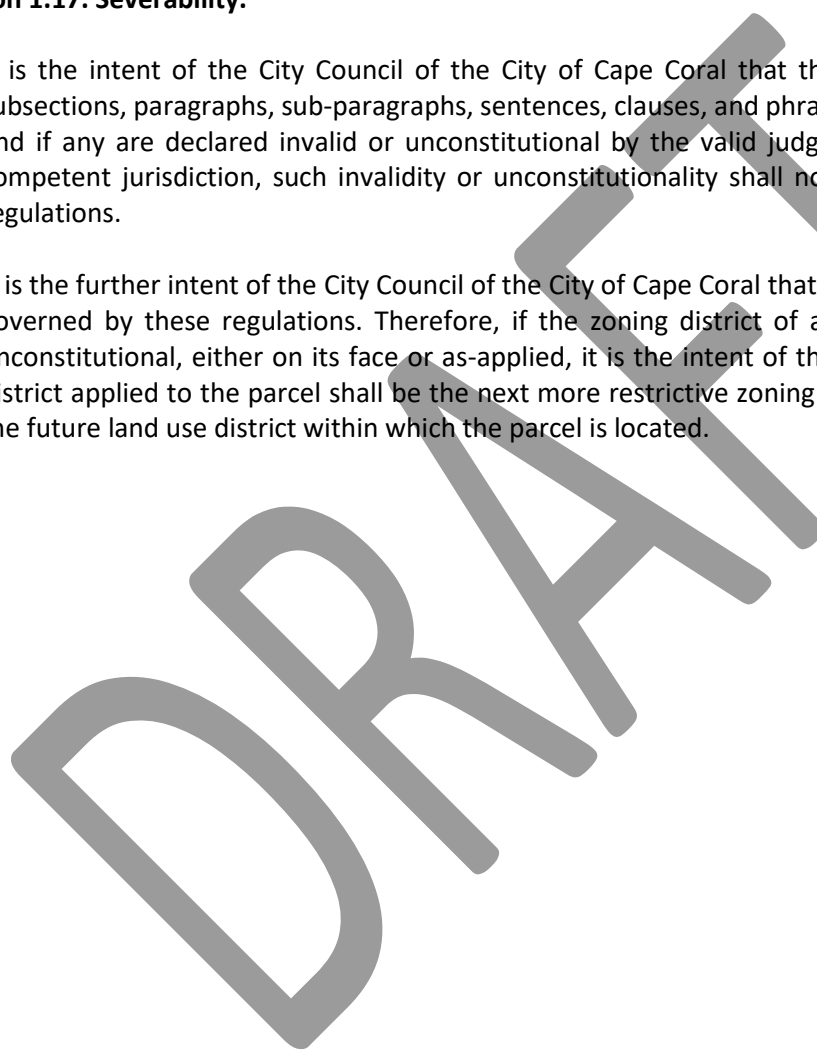
461
462 J. Excluded areas. Where land or water areas have been inadvertently excluded from a zoning district
463 classification in any manner, such areas shall be classified in conformance with the most restrictive
464 zoning district which abuts the excluded area until or unless changed pursuant to amendment
465 procedures set forth in Article 3, Sec. 3.4.5.

466
467 **Section 1.17. Severability.**

468
469 A. It is the intent of the City Council of the City of Cape Coral that the articles, chapters, sections,
470 subsections, paragraphs, sub-paragraphs, sentences, clauses, and phrases of this Code are severable,
471 and if any are declared invalid or unconstitutional by the valid judgment or decree of a court of
472 competent jurisdiction, such invalidity or unconstitutionality shall not affect the balance of these
473 regulations.

474
475 B. It is the further intent of the City Council of the City of Cape Coral that all property within the City be
476 governed by these regulations. Therefore, if the zoning district of a parcel is declared invalid or
477 unconstitutional, either on its face or as-applied, it is the intent of the City Council that the zoning
478 district applied to the parcel shall be the next more restrictive zoning district that is consistent with
479 the future land use district within which the parcel is located.

480



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1 **Sections:**

- 2
- 3 **Section 1.1.** Title
- 4 **Section 1.2.** Authority
- 5 **Section 1.3.** Purpose and Intent
- 6 **Section 1.4.** Jurisdiction and Applicability
- 7 **Section 1.5.** Compliance with regulations
- 8 **Section 1.6.** Violations, enforcement, and penalties
- 9 **Section 1.7.** Buildings under construction
- 10 **Section 1.8.** Outstanding permits
- 11 **Section 1.9.** Time limitation of approvals
- 12 **Section 1.10.** Annexed lands
- 13 **Section 1.11.** Comprehensive Plan and Future Land Use Map
- 14 **Section 1.12.** Official Zoning Map
- 15 **Section 1.13.** Transitional rules
- 16 **Section 1.14.** General rules of construction
- 17 **Section 1.15.** Measurements
- 18 **Section 1.16.** Interpretation of zoning district boundaries
- 19 **Section 1.17.** Severability
- 20

21 **Section 1.1. Title.**

22

23 This Code shall be known as and referred to as the Land Development Code (“LDC” or “these regulations”

24 or the “Code”) of the City of Cape Coral, Florida.

25

26 **Section 1.2. Authority.**

27

28 These regulations are enacted pursuant to the requirements and authority of Section 163.3161 et seq.,

29 Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act),

30 the Charter of the City of Cape Coral, and the powers and authority in Chapters 60, 162, 166, 171, 177,

31 286, 380, and 823, Florida Statutes, as amended.

32

33 **Section 1.3. Purpose and Intent of the City of Cape Coral Land Development Code.**

34

35 The purpose of the City of Cape Coral Land Development Code is to implement the Comprehensive Plan

36 of the City pursuant to Chapter 163, Florida Statutes for the protection and promotion of the safety,

37 health, comfort, appearance, and general welfare of the City and its inhabitants and specifically for the

38 following intent:

39

- 40 A. Continue to foster community pride and a sense of stewardship in the City;
- 41
- 42 B. Preserve and implement the comprehensive plan;
- 43
- 44 C. Ensure the application and administration of these regulations continues to improve the overall
- 45 quality of life and promote development of the City;
- 46

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- 47 D. Establish zoning districts as a means of achieving unified civic design and proper relationship between
48 the uses of land by regulating the location and use of buildings and other structures;
49
50 E. To minimize and reduce conflicts among various land uses through the application of regulations
51 designed to assure harmonious relationships among land uses;
52
53 F. To ensure safe and convenient traffic circulation, adequate utilities, recreation areas, and the
54 development of economically stable and healthful neighborhoods;
55
56 G. To prevent periodic and seasonal flooding by providing flood control and drainage facilities;
57
58 H. To discourage haphazard, premature, uneconomical, or scattered land development; and
59
60 I. To ensure that the citizens and taxpayers of the city will not have to bear the costs resulting from
61 haphazard land development or the lack of adequate and necessary physical improvements incidental
62 to land development.
63

64 **Section 1.4. Jurisdiction and applicability.**

- 65
66 A. These regulations shall govern the development and use of land, buildings, and structures within the
67 municipal boundary of the City.
68
69 B. No building, structure, water, or land shall be used, occupied, or developed unless in conformity with
70 all provisions of the zoning district in which it is located, all other applicable regulations, and all
71 development approvals.
72

73 **Section 1.5. Compliance with regulations.**

- 74
75 A. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered
76 except in conformance with:
77
78 1. The applicable zoning district regulations;
79
80 2. The bulk, area, and dimensional regulations of the zoning district;
81
82 3. The off-street parking and loading regulations for the use in the building in question;
83
84 4. The floor area regulations of the zoning district;
85
86 5. The established flood criteria, as indicated on the most current edition of the federal flood
87 insurance rate maps and the requirements in Article 9 applicable to the development site; and
88
89 6. All other applicable laws, rules, and regulations.
90
91 B. No building shall be erected or enlarged after the effective date of these regulations, which reduces
92 any level of service standard established in the City of Cape Coral adopted comprehensive plan.

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Section 1.6. Violations, enforcement, and penalties.

The procedures for enforcement and penalties for violations of this Code are set forth in Chapter 2, Article 5, Divisions 3 and 4 of the City of Cape Coral Code of Ordinances. The provisions of this Code are supplemental to any other procedures and remedies available to the City of Cape Coral. Nothing contained in this Code prohibits the City of Cape Coral from enforcing its codes or ordinances by other Code Enforcement provisions of the City of Cape Coral Code of Ordinances or other applicable law.

Section 1.7. Buildings under construction.

Any building or structure for which a lawful building permit has been issued prior to the effective date of this article may be completed and used in accordance with the plans and specifications upon which such building permit was granted, provided construction is completed within the life of the building permit.

Section 1.8. Outstanding permits.

Where there are outstanding and valid building or development permits authorizing construction of buildings, structures, additions, or alterations, the use or construction of which do not conform to the requirements of this article, such permits shall be valid for the life of the permit.

Section 1.9. Time limitation of approvals.

Time limits for permits issued under this Code are specified for each type of development permit. Conditions of approval attached to permit approvals may establish additional time limits on the life of a permit or establish specific timeframes for certain actions.

Section 1.10. Annexed lands.

In accordance with FS 171.062, all land annexed in to the City of Cape Coral shall retain the Lee County Future Land Use and Zoning Designations until the City Council adopts a comprehensive plan amendment that includes the annexed area and adopts an ordinance establishing a zoning district for the annexed area.

Section 1.11. Comprehensive Plan and Future Land Use Map.

The Comprehensive Plan and Future Land Use Map of the City of Cape Coral are the official statements of policy for the City regarding the use of land. All use or development of land undertaken pursuant to these regulations shall be consistent with the Comprehensive Plan and the Future Land Use Map.

Section 1.12. Official Zoning Map.

- A. The Official Zoning Map is established and incorporated into these regulations by this reference. The Official Zoning Map shows the boundaries of all Zoning Districts as adopted by the City Council pursuant to the procedures of these regulations.

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- 139 B. The Official Zoning Map shall be the official record of zoning status of land within the city. The Official
140 Zoning District Map shall be maintained by the city electronically. The city is divided into districts, or
141 zones, as provided by this ordinance. The electronic format of the map will reside within the city
142 Geographic Information System (GIS) as the zoning layer and shall be maintained by the Department
143 of Community Development - Planning Division. The map will be updated on a continuous basis
144 following approval of zoning changes by City Council. The electronic format of the map will be
145 viewable via the Internet and paper copies can be produced on demand.
146
- 147 C. Pursuant to Laws of Fla. Ch. 78-540, § 8, the city shall exercise extraterritorial zoning powers within
148 an area extending 600 feet into the tidal waters adjacent to the corporate city limits. All such areas
149 shall have the same zoning as the adjacent uplands.
150
- 151 D. The Official Zoning Map, as amended from time to time, shall be kept on file and made available for
152 public reference in the Office of the City Clerk and the Community Development Department.
153 Amendments to zoning on the Official Zoning District Map shall be consistent with the adopted Cape
154 Coral Comprehensive Plan, including the Future Land Use Map and its accompanying text.
155 Amendments shall be made on or after the effective date of such zoning change. The Director of the
156 Department of Community Development shall ensure that amended zoning district boundaries are
157 accurately placed on the zoning map. The City Clerk shall keep records on file which identify the official
158 action by which a map amendment was made, the date of such action, the land area affected and the
159 date of posting.
160
- 161 E. Should the map or any portion thereof become damaged, destroyed, or lost the City Council is
162 authorized, by [ordinance resolution](#), to replace the map or damaged portion and the new map shall
163 supersede the one replaced. The new map may correct drafting or other errors, but no replacement
164 shall have the effect of changing the official zoning status of property unless the prior map has been
165 totally destroyed. The City Clerk shall preserve any records relating to its adoption and amendment.
166
- 167 F. Unauthorized changes. Substantial changes of the nature affecting the zoning of property is strictly
168 prohibited and unlawful, unless in conformity with the requirements and procedures of this ordinance
169 or applicable law.
170

171 **Section 1.13. Transitional rules.**
172

- 173 A. Existing unlawful uses, lots, and structures. A structure, lot, or use not lawfully existing at the time of
174 the adoption of these regulations is lawful only if it conforms with all of the requirements of these
175 regulations. All other violations of prior regulations of the City as of the effective date of this ordinance
176 shall continue to be violations and shall not be considered to be legal nonconformities under this code
177 unless such violation(s) becomes lawful by adoption of this code.
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**CITY OF CAPE CORAL, FLORIDA
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192 may proceed to develop the property in accordance with the previous approval. However, if
193 construction has not commenced before the approval expires or if the approval is abandoned, the
194 provisions of these regulations shall govern.
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217
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219
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221
- 222 e. Preservation (PV)
223
- 224 f. Professional (P)
225
- 226 3. Mixed Use zoning districts.
227
- 228 ~~a. Commercial Corridor (CC)~~
229 ~~b. _____~~

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230 Neighborhood Commercial (NC)

- 231
- 232 b. Mixed Use Bimini (MXB)
- 233
- 234 c. Mixed Use Seven Islands (MX7)
- 235
- 236 d. South Cape (SC)
- 237
- 238 e. Planned Unit Development (PUD)
- 239

240 F. Prior approved PDP projects. All planned development projects (PDPs) approved prior to the adoption
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243 Planned Unit Development under this code, and the owner may proceed to develop the property in
244 accordance with the previous approval. All previously approved PDP sites are classified in the PUD
245 zoning district under this Code. If substantial construction pursuant to the PDP approval has not
246 commenced before the approval expires or if the approval is abandoned, the provisions of these
247 regulations shall govern.

248
249 **Section 1.14. General rules of construction.**

250
251 For the purposes of these regulations, the following rules of construction apply:

- 252
- 253 A. These regulations shall be deemed the minimum requirements for the promotion of the health,
254 safety, order, convenience, and general welfare of the community.
- 255
- 256 B. These regulations shall be construed to achieve the purposes and intent for which they are adopted.
- 257
- 258 C. Nothing in these regulations is intended to repeal any easement, covenant, deed restriction, or other
259 private agreement; however, where these regulations are more restrictive or impose higher standards
260 or requirements than such easement, covenant, deed restriction, or other private agreement, these
261 regulations shall govern.
- 262
- 263 D. In the event of a conflict:
- 264
- 265 1. Between the text of these regulations and any caption, figure, illustration, table, or map, the text
266 of these regulations shall control;
- 267
- 268 2. Between a chart and an illustration, the chart shall control. All illustrations included in these
269 regulations are for illustrative purposes only;
- 270
- 271 3. When limitations, restrictions, or standards apply to an individual lot, use, or structure the more
272 restrictive provisions shall apply; and
- 273
- 274 4. Between these regulations and any federal, state, or county law or regulation which pre-empts
275 local regulation, the federal, state, or county law or regulation shall apply.

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**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 1 - GENERAL PROVISIONS**

- 276
277 E. Words and phrases shall be construed according to the rules of grammar and according to the
278 common and approved usage. Technical words and terms that are used and that may have a particular
279 meaning based on law shall be defined according to that meaning.
280
- 281 F. The terms "Ordinance," "Code," "Law," "Statute," "Title," and "Act" are understood to include the
282 term "as amended", unless the context clearly indicates otherwise. References to technical manuals,
283 resource materials, code references, the comprehensive plan, and similar documents are understood
284 to include the term "as amended" unless the context clearly indicates otherwise.
285
- 286 G. The words "shall," "must," and "will" are mandatory in nature, implying an obligation or duty to
287 comply with the particular provision.
288
- 289 H. The word "or" is alternative in nature.
290
- 291 I. The word "may" is permissive in nature.
292
- 293 J. The word "including" shall be construed to include the phrase "but not limited to."
294
- 295 K. Words used in the present tense include the future tense.
296
- 297 L. The singular number includes the plural number and the plural, the singular.
298
- 299 M. Words utilizing the masculine gender include the feminine gender and use of the feminine gender
300 includes the masculine.
301
- 302 N. The words "used" and "occupied" as applied to any land or building shall be construed to include the
303 words "intended, arranged, or designed to be used or occupied."
304
- 305 O. The word "herein" means "these regulations."
306
- 307 P. The words "building" or "structure" includes any of its parts.
308
- 309 Q. The word "person" includes an individual, a corporation, a partnership, an incorporated association,
310 or any other similar entity.
311
- 312 R. The word "owner" includes his or her agents or authorized representatives unless the context clearly
313 indicates otherwise.
314
- 315 S. Any act authorized by these regulations to be carried out by a specific official or agency of the City is
316 authorized to be carried out by a designee of such official or agency, unless the context clearly
317 indicates otherwise.
318
- 319 T. The time within which an act is to be done shall be computed by excluding the first and including the
320 last day; if the last day is a Saturday, Sunday, or a legal holiday the timeframe shall be extended to the
321 next working day.

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Section 1.15. Measurements.

- A. Number of Residential Units Allowed (Density). The maximum number of residential units allowed on a site is determined by multiplying the maximum density allowed under the Comprehensive Plan by the parcel size (i.e., allowable comp plan density (x) parcel size), except when the zoning district of a parcel permits lot sizes that equate to a smaller maximum density for that parcel.
- B. Distance requirements. Unless otherwise provided herein, distances shall be measured in accordance with the following:
 - 1. When the LDC requires a distance between uses or developments on different development parcels or there are LDC requirements for a development within a certain distance from another development parcel, the distance shall be measured using a straight-line measurement from the closest point of one parcel to the closest point of the parcel(s) involved.
 - 2. When the LDC imposes requirements on a development within a certain distance of a zoning district, the distance shall be measured using a straight-line measurement from the closest point of a zoning district boundary to the closest point of the parcel(s) involved.

When there is a distance requirement between a structure or building on the same development site, the distance shall be measured from the exterior of the buildings or structures, using a straight-line measurement from the closest points between the structures being measured.
 - 3. When a portion of a parcel or development site lies within a certain distance of a zoning district or development and the LDC imposes requirements or regulations on a development or parcel within that distance, the requirements and regulations shall be applicable to the entire parcel or development site and not just to the portion within the specified distance.
- C. Floor area, gross. The sum of the floor areas of all floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, excluding covered parking, loading areas, or parking garages. When an entire level of a building or structure is below ground as measured from floor to floor or ceiling slab to ceiling slab, the floor area of this level shall be excluded from the calculation of gross floor area. Unless otherwise specified, gross floor area for food service establishments shall also include any outdoor or patio floor area on the property used or designed for customer service.
- D. Floor area, net. The total floor area of all floors of a building shall be measured by excluding from the gross floor area stairwells and elevator shafts, equipment rooms, interior vehicular parking, loading, and all floors below the first or ground floor, except when such areas are used or intended to be used for human habitation or service to the public.
- E. Floor area ratio (FAR). The floor area ratio is measured by the net floor area of all buildings or structures on a lot, parcel, or site divided by the total lot, parcel, or site area.
- F. Fractional measurements.

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1. When units or measurements result in a requirement of a fraction, any such fraction equal to or greater than exactly fifty percent (50%) shall require the full requirement, unless otherwise provided for in these regulations.
 2. Density fractional measurements. When calculating density, any fraction of a unit shall be rounded down to the nearest whole number, unless otherwise provided for in these regulations.
- G. Grade.
1. When used to measure habitable structures, grade shall be the highest elevation of:
 - a. The natural elevation of the ground when compared to abutting properties. Natural elevation of the ground when compared to abutting properties, shall be derived by selecting a minimum of two (2) elevation points on each adjoining property line and calculating the average of all the selected elevation points. This calculation will determine the reference plane for calculating the height of habitable structures only;
 - b. The base flood elevation requirement for the lowest floor as shown on the flood insurance rate map published by the Federal Emergency Management Agency (FEMA);
 - c. Eighteen (18) inches above the FEMA base flood elevation requirement for the bottom of the Lowest Horizontal Structural Member (LHSM) of the lowest floor; or
 - d. Eighteen (18) inches above the State of Florida, Department of Environmental Protection minimum requirement for the bottom of the LHSM of the lowest floor. For purposes of the definition of grade, the term floor shall be defined as the top of the lowest inside surface of an enclosed area in a building, including the basement. For example, the top of the slab in a concrete slab construction or the top of wood flooring in wood frame construction. The term does not include an unfurnished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area.
 2. When used to measure non-habitable accessory structures, grade shall be the finished ground surface at the base of the accessory structure being measured. If a retaining wall elevates the non-habitable accessory structure, grade shall be the finished ground surface at the base of the retaining wall.
- H. Building Height. The height of buildings shall be measured from the lowest finished floor elevation to the lowest point of the highest horizontal eave or the top of the roof slab for structures with flat roofs. Church spires and steeples, chimneys, parapet walls, machine rooms, elevator towers, and similar features necessary to the design and function of a building but not designed for human occupancy, shall not be included in the measurement of overall building height.
- I. Lot coverage. That portion of a lot that is covered by all principal and accessory buildings.

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413 J. Lot depth. The depth of a lot is the distance measured from the mean direction of the side lines of the
414 lot from the midpoint of the street lot line to the midpoint of the opposite main rear line of the lot.
415

416 K. Lot width. The horizontal distance between the side lines of a lot measured at the front building
417 setback line, or at the front property line where no front setback is required.
418

419
420 L. Setback. A setback is the minimum horizontal distance between a structure and a property line.
421 Setbacks shall extend and be measured perpendicular and inward from the respective property lines.
422

423 **Section 1.16. Interpretation of zoning district boundaries.**
424

425 Zoning district boundaries are usually depicted along streets, alleys, shorelines, property lines, or
426 extensions thereof. Where an uncertainty exists with respect to the boundaries of districts as shown on
427 the Official Zoning Map, the following rules shall apply:
428

429 A. Centerlines. Boundaries indicated as approximately following the centerlines of streets, highways, or
430 alleys shall be construed to follow such centerlines;
431

432 B. Lot, section, and tract lines. Boundaries indicated as approximately following platted lot lines shall be
433 construed as following such lot lines;
434

435 C. Political boundaries. Boundaries indicated as approximately following City limits shall be construed as
436 following City limits;
437

438 D. Shorelines. Boundaries indicated as following shorelines shall be construed to follow such shorelines.
439 In the event of a change in the shoreline, the zoning district boundary shall be construed as moving
440 with the actual shoreline. Boundaries indicated as approximately following the centerline of streams,
441 rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;
442

443 E. Vacations. Whenever any street, alley, or other public way is vacated by official action of the City
444 Council, the zoning district of the property abutting each side of the street, alley, or public way shall
445 be automatically extended to the center of such vacation and all area included within the vacation
446 shall thereafter be subject to all regulations of the extended districts;
447

448 F. Filled lands. Where land is built-up by fill upon areas formerly submerged under water, the district
449 regulations applying to the land immediately adjoining such built-up land shall be automatically
450 extended thereto;
451

452 G. Parallel lines. Boundaries indicated as parallel to or extensions of features indicated in subsections A
453 through F of this section shall be so construed. Distances not specifically indicated on the official
454 zoning map shall be determined by the scale of the map;
455

456 H. Bisecting lines. Where district boundary lines approximately bisect blocks, the boundaries are the
457 median line of such blocks, between the centerlines of boundary streets;
458

**CITY OF CAPE CORAL, FLORIDA
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459 I. Uncertainties. Where physical or cultural features existing on the ground are at variance with those
460 shown on the official zoning map or if any other uncertainty exists, the Director of Community
461 Development shall interpret the intent of the official zoning map as to the location of district
462 boundaries; and

463
464 J. Excluded areas. Where land or water areas have been inadvertently excluded from a zoning district
465 classification in any manner, such areas shall be classified in conformance with the most restrictive
466 zoning district which abuts the excluded area until or unless changed pursuant to amendment
467 procedures set forth in Article 3, Sec. 3.4.5.

468
469 **Section 1.17. Severability.**

470
471 A. It is the intent of the City Council of the City of Cape Coral that the articles, chapters, sections,
472 subsections, paragraphs, sub-paragraphs, sentences, clauses, and phrases of this Code are severable,
473 and if any are declared invalid or unconstitutional by the valid judgment or decree of a court of
474 competent jurisdiction, such invalidity or unconstitutionality shall not affect the balance of these
475 regulations.

476
477 B. It is the further intent of the City Council of the City of Cape Coral that all property within the City be
478 governed by these regulations. Therefore, if the zoning district of a parcel is declared invalid or
479 unconstitutional, either on its face or as-applied, it is the intent of the City Council that the zoning
480 district applied to the parcel shall be the next more restrictive zoning district that is consistent with
481 the future land use district within which the parcel is located.

482

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1 **Sections:**
2

- 3 **Section 1.1.** Title
- 4 **Section 1.2.** Authority
- 5 **Section 1.3.** Purpose and Intent
- 6 **Section 1.4.** Jurisdiction and Applicability
- 7 **Section 1.5.** Compliance with regulations
- 8 **Section 1.6.** Violations, enforcement, and penalties
- 9 **Section 1.7.** Buildings under construction
- 10 **Section 1.8.** Outstanding permits
- 11 **Section 1.9.** Time limitation of approvals
- 12 **Section 1.10.** Annexed lands
- 13 **Section 1.11.** Comprehensive Plan and Future Land Use Map
- 14 **Section 1.12.** Official Zoning Map
- 15 **Section 1.13.** Transitional rules
- 16 **Section 1.14.** General rules of construction
- 17 **Section 1.15.** Measurements
- 18 **Section 1.16.** Interpretation of zoning district boundaries
- 19 **Section 1.17.** Severability

20
21 **Section 1.1. Title.**

22
23 This Code shall be known as and referred to as the Land Development Code (“LDC” or “these regulations”
24 or the “Code”) of the City of Cape Coral, Florida.
25

26 **Section 1.2. Authority.**
27

28 These regulations are enacted pursuant to the requirements and authority of Section 163.3161 et seq.,
29 Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act),
30 the Charter of the City of Cape Coral, and the powers and authority in Chapters 60, 162, 166, 171, 177,
31 286, 380, and 823, Florida Statutes, as amended.
32

33 **Section 1.3. Purpose and Intent of the City of Cape Coral Land Development Code.**
34

35 The purpose of the City of Cape Coral Land Development Code is to implement the Comprehensive Plan
36 of the City pursuant to Chapter 163, Florida Statutes for the protection and promotion of the safety,
37 health, comfort, appearance, and general welfare of the City and its inhabitants and specifically for the
38 following intent:
39

- 40 A. Continue to foster community pride and a sense of stewardship in the City;
- 41
- 42 B. Preserve and implement the comprehensive plan;
- 43
- 44 C. Ensure the application and administration of these regulations continues to improve the overall
45 quality of life and promote development of the City;
- 46

**CITY OF CAPE CORAL, FLORIDA
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- 47 D. Establish zoning districts as a means of achieving unified civic design and proper relationship between
48 the uses of land by regulating the location and use of buildings and other structures;
49
- 50 E. To minimize and reduce conflicts among various land uses through the application of regulations
51 designed to assure harmonious relationships among land uses;
52
- 53 F. To ensure safe and convenient traffic circulation, adequate utilities, recreation areas, and the
54 development of economically stable and healthful neighborhoods;
55
- 56 G. To prevent periodic and seasonal flooding by providing flood control and drainage facilities;
57
- 58 H. To discourage haphazard, premature, uneconomical, or scattered land development; and
59
- 60 I. To ensure that the citizens and taxpayers of the city will not have to bear the costs resulting from
61 haphazard land development or the lack of adequate and necessary physical improvements incidental
62 to land development.
63

Section 1.4. Jurisdiction and applicability.

- 64
- 65
- 66 A. These regulations shall govern the development and use of land, buildings, and structures within the
67 municipal boundary of the City.
68
- 69 B. No building, structure, water, or land shall be used, occupied, or developed unless in conformity with
70 all provisions of the zoning district in which it is located, all other applicable regulations, and all
71 development approvals.
72

Section 1.5. Compliance with regulations.

- 73
- 74
- 75 A. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered
76 except in conformance with:
77
- 78 1. The applicable zoning district regulations;
79
- 80 2. The bulk, area, and dimensional regulations of the zoning district;
81
- 82 3. The off-street parking and loading regulations for the use in the building in question;
83
- 84 4. The floor area regulations of the zoning district;
85
- 86 5. The established flood criteria, as indicated on the most current edition of the federal flood
87 insurance rate maps and the requirements in Article 9 applicable to the development site; and
88
- 89 6. All other applicable laws, rules, and regulations.
- 90
- 91 B. No building shall be erected or enlarged after the effective date of these regulations, which reduces
92 any level of service standard established in the City of Cape Coral adopted comprehensive plan.

**CITY OF CAPE CORAL, FLORIDA
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ARTICLE 1 - GENERAL PROVISIONS**

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Section 1.6. Violations, enforcement, and penalties.

The procedures for enforcement and penalties for violations of this Code are set forth in Chapter 2, Article 5, Divisions 3 and 4 of the City of Cape Coral Code of Ordinances. The provisions of this Code are supplemental to any other procedures and remedies available to the City of Cape Coral. Nothing contained in this Code prohibits the City of Cape Coral from enforcing its codes or ordinances by other Code Enforcement provisions of the City of Cape Coral Code of Ordinances or other applicable law.

Section 1.7. Buildings under construction.

Any building or structure for which a lawful building permit has been issued prior to the effective date of this article may be completed and used in accordance with the plans and specifications upon which such building permit was granted, provided construction is completed within the life of the building permit.

Section 1.8. Outstanding permits.

Where there are outstanding and valid building or development permits authorizing construction of buildings, structures, additions, or alterations, the use or construction of which do not conform to the requirements of this article, such permits shall be valid for the life of the permit.

Section 1.9. Time limitation of approvals.

Time limits for permits issued under this Code are specified for each type of development permit. Conditions of approval attached to permit approvals may establish additional time limits on the life of a permit or establish specific timeframes for certain actions.

Section 1.10. Annexed lands.

In accordance with FS 171.062, all land annexed in to the City of Cape Coral shall retain the Lee County Future Land Use and Zoning Designations until the City Council adopts a comprehensive plan amendment that includes the annexed area and adopts an ordinance establishing a zoning district for the annexed area.

Section 1.11. Comprehensive Plan and Future Land Use Map.

The Comprehensive Plan and Future Land Use Map of the City of Cape Coral are the official statements of policy for the City regarding the use of land. All use or development of land undertaken pursuant to these regulations shall be consistent with the Comprehensive Plan and the Future Land Use Map.

Section 1.12. Official Zoning Map.

- A. The Official Zoning Map is established and incorporated into these regulations by this reference. The Official Zoning Map shows the boundaries of all Zoning Districts as adopted by the City Council pursuant to the procedures of these regulations.

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- 139 B. The Official Zoning Map shall be the official record of zoning status of land within the city. The Official
140 Zoning District Map shall be maintained by the city electronically. The city is divided into districts, or
141 zones, as provided by this ordinance. The electronic format of the map will reside within the city
142 Geographic Information System (GIS) as the zoning layer and shall be maintained by the Department
143 of Community Development - Planning Division. The map will be updated on a continuous basis
144 following approval of zoning changes by City Council. The electronic format of the map will be
145 viewable via the Internet and paper copies can be produced on demand.
146
- 147 C. Pursuant to Laws of Fla. Ch. 78-540, § 8, the city shall exercise extraterritorial zoning powers within
148 an area extending 600 feet into the tidal waters adjacent to the corporate city limits. All such areas
149 shall have the same zoning as the adjacent uplands.
150
- 151 D. The Official Zoning Map, as amended from time to time, shall be kept on file and made available for
152 public reference in the Office of the City Clerk and the Community Development Department.
153 Amendments to zoning on the Official Zoning District Map shall be consistent with the adopted Cape
154 Coral Comprehensive Plan, including the Future Land Use Map and its accompanying text.
155 Amendments shall be made on or after the effective date of such zoning change. The Director of the
156 Department of Community Development shall ensure that amended zoning district boundaries are
157 accurately placed on the zoning map. The City Clerk shall keep records on file which identify the official
158 action by which a map amendment was made, the date of such action, the land area affected and the
159 date of posting.
160
- 161 E. Should the map or any portion thereof become damaged, destroyed, or lost the City Council is
162 authorized, by ordinance, to replace the map or damaged portion and the new map shall supersede
163 the one replaced. The new map may correct drafting or other errors, but no replacement shall have
164 the effect of changing the official zoning status of property unless the prior map has been totally
165 destroyed. The City Clerk shall preserve any records relating to its adoption and amendment.
166
- 167 F. Unauthorized changes. Substantial changes of the nature affecting the zoning of property is strictly
168 prohibited and unlawful, unless in conformity with the requirements and procedures of this ordinance
169 or applicable law.
170

171 **Section 1.13. Transitional rules.**
172

- 173 A. Existing unlawful uses, lots, and structures. A structure, lot, or use not lawfully existing at the time of
174 the adoption of these regulations is lawful only if it conforms with all of the requirements of these
175 regulations. All other violations of prior regulations of the City as of the effective date of this ordinance
176 shall continue to be violations and shall not be considered to be legal nonconformities under this code
177 unless such violation(s) becomes lawful by adoption of this code.
178
- 179 B. Existing approved uses. An existing use which is lawful on the date of adoption of these regulations,
180 whether as a “permitted use”, or a “special exception use” in the zoning district in which it is located,
181 shall not be deemed nonconforming solely because the procedure for approval has changed through
182 the adoption of these regulations.
183

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- 184 C. Previously granted variances. Unless becoming conforming pursuant to Subsection A, above, all
185 variances granted under any prior edition of the Land Development Code and which are still in effect
186 upon adoption of these regulations shall remain in full force and effect, including any conditions
187 attached thereto, and the owner may proceed to develop the property in accordance with the
188 approved variance.
189
- 190 D. Previously approved special exceptions. All special exceptions approved prior to the adoption of these
191 regulations, and any conditions attached thereto, shall remain in full force and effect, and the owner
192 may proceed to develop the property in accordance with the previous approval. However, if
193 construction has not commenced before the approval expires or if the approval is abandoned, the
194 provisions of these regulations shall govern.
195
- 196 E. Prior zoning districts. Unless provided otherwise on the Official Zoning Map, upon adoption of these
197 regulations, all existing zoning classifications shall be reclassified with one of the zoning classifications
198 set forth in Article 4, Zoning Districts, as follows:
199
- 200 1. Residential zoning districts.
201
 - 202 a. Single-family residential (R-1)
 - 203 b. Multi-family residential low density (RML)
 - 204 c. Multi-family medium density (RMM)
 - 205 d. Residential Estate (RE)
 - 206 e. Agriculture (A)
 - 207 2. Non-residential zoning districts.
208
 - 209 a. Commercial (C)
 - 210 b. Professional Office (P)
 - 211 c. Industrial (I)
 - 212 d. Institutional (INST)
 - 213 e. Preservation (PV)
 - 214 3. Mixed Use zoning districts.
215
 - 216 a. Commercial Corridor (CC)
 - 217 b. Neighborhood Commercial (NC)
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- 230 c. Mixed Use Seven Islands (MX7)
- 231
- 232 d. Mixed Use Bimini (MXB)
- 233
- 234 d. South Cape (SC)
- 235
- 236 e. Planned Unit Development (PUD)
- 237

238 F. Prior approved PDP projects. All planned development projects (PDPs) approved prior to the adoption
239 of these regulations, and any approved site plan and conditions attached thereto, shall remain in full
240 force and effect. All such approved PDPs shall hereafter be deemed a permitted and approved
241 Planned Unit Development under this code, and the owner may proceed to develop the property in
242 accordance with the previous approval. All previously approved PDP sites are classified in the PUD
243 zoning district under this Code. If substantial construction pursuant to the PDP approval has not
244 commenced before the approval expires or if the approval is abandoned, the provisions of these
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247 **Section 1.14. General rules of construction.**

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309
- 310 R. The word "owner" includes his or her agents or authorized representatives unless the context clearly
311 indicates otherwise.
312
- 313 S. Any act authorized by these regulations to be carried out by a specific official or agency of the City is
314 authorized to be carried out by a designee of such official or agency, unless the context clearly
315 indicates otherwise.
316
- 317 T. The time within which an act is to be done shall be computed by excluding the first and including the
318 last day; if the last day is a Saturday, Sunday, or a legal holiday the timeframe shall be extended to the
319 next working day.
320

**CITY OF CAPE CORAL, FLORIDA
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ARTICLE 1 - GENERAL PROVISIONS**

321 **Section 1.15. Measurements.**

322

323 A. Number of Residential Units Allowed (Density). The maximum number of residential units allowed on
324 a site is determined by multiplying the maximum density allowed under the Comprehensive Plan by
325 the parcel size (i.e., allowable comp plan density (x) parcel size), except when the zoning district of a
326 parcel permits lot sizes that equate to a smaller maximum density for that parcel.

327

328 B. Distance requirements. Unless otherwise provided herein, distances shall be measured in accordance
329 with the following:

330

331 1. When the LDC requires a distance between uses or developments on different development
332 parcels or there are LDC requirements for a development within a certain distance from another
333 development parcel, the distance shall be measured using a straight-line measurement from the
334 closest point of one parcel to the closest point of the parcel(s) involved.

335

336 2. When the LDC imposes requirements on a development within a certain distance of a zoning
337 district, the distance shall be measured using a straight-line measurement from the closest point
338 of a zoning district boundary to to the closest point of the parcel(s) involved.

339

340 When there is a distance requirement between a structure or building on the same development
341 site, the distance shall be measured from the exterior of the buildings or structures, using a
342 straight-line measurement from the closest points between the structures being measured.

343

344 3. When a portion of a parcel or development site lies within a certain distance of a zoning district
345 or development and the LDC imposes requirements or regulations on a development or parcel
346 within that distance, the requirements and regulations shall be applicable to the entire parcel or
347 development site and not just to the portion within the specified distance.

348

349 C. Floor area, gross. The sum of the floor areas of all floors of a building or structure from the exterior
350 face of exterior walls, or from the centerline of a wall separating two buildings, excluding covered
351 parking, loading areas, or parking garages. When an entire level of a building or structure is below
352 ground as measured from floor to floor or ceiling slab to ceiling slab, the floor area of this level shall
353 be excluded from the calculation of gross floor area. Unless otherwise specified, gross floor area for
354 food service establishments shall also include any outdoor or patio floor area on the property used or
355 designed for customer service.

356

357 D. Floor area, net. The total floor area of all floors of a building shall be measured by excluding from the
358 gross floor area stairwells and elevator shafts, equipment rooms, interior vehicular parking, loading,
359 and all floors below the first or ground floor, except when such areas are used or intended to be used
360 for human habitation or service to the public.

361

362 E. Floor area ratio (FAR). The floor area ratio is measured by the net floor area of all buildings or
363 structures on a lot, parcel, or site divided by the total lot, parcel, or site area.

364

365 F. Fractional measurements.

366

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367 1. When units or measurements result in a requirement of a fraction, any such fraction equal to or
368 greater than exactly fifty percent (50%) shall require the full requirement, unless otherwise
369 provided for in these regulations.
370

371 2. Density fractional measurements. When calculating density, any fraction of a unit shall be
372 rounded down to the nearest whole number, unless otherwise provided for in these regulations.
373

374 G. Grade.

375
376 1. When used to measure habitable structures, grade shall be the highest elevation of:
377

378 a. The natural elevation of the ground when compared to abutting properties. Natural elevation
379 of the ground when compared to abutting properties, shall be derived by selecting a minimum
380 of two (2) elevation points on each adjoining property line and calculating the average of all
381 the selected elevation points. This calculation will determine the reference plane for
382 calculating the height of habitable structures only;
383

384 b. The base flood elevation requirement for the lowest floor as shown on the flood insurance
385 rate map published by the Federal Emergency Management Agency (FEMA);
386

387 c. Eighteen (18) inches above the FEMA base flood elevation requirement for the bottom of the
388 Lowest Horizontal Structural Member (LHSM) of the lowest floor; or
389

390 d. Eighteen (18) inches above the State of Florida, Department of Environmental Protection
391 minimum requirement for the bottom of the LHSM of the lowest floor. For purposes of the
392 definition of grade, the term floor shall be defined as the top of the lowest inside surface of
393 an enclosed area in a building, including the basement. For example, the top of the slab in a
394 concrete slab construction or the top of wood flooring in wood frame construction. The term
395 does not include an unfurnished or flood resistant enclosure, usable solely for parking of
396 vehicles, building access, or storage in an area other than a basement area.
397

398 2. When used to measure non-habitable accessory structures, grade shall be the finished ground
399 surface at the base of the accessory structure being measured. If a retaining wall elevates the
400 non-habitable accessory structure, grade shall be the finished ground surface at the base of the
401 retaining wall.
402

403 H. Building Height. The height of buildings shall be measured from the lowest finished floor elevation to
404 the lowest point of the highest horizontal eave or the top of the roof slab for structures with flat roofs.
405 Church spires and steeples, chimneys, parapet walls, machine rooms, elevator towers, and similar
406 features necessary to the design and function of a building but not designed for human occupancy,
407 shall not be included in the measurement of overall building height.
408

409 I. Lot coverage. That portion of a lot that is covered by all principal and accessory buildings.
410

411 J. Lot depth. The depth of a lot is the distance measured from the mean direction of the side lines of the
412 lot from the midpoint of the street lot line to the midpoint of the opposite main rear line of the lot.

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413
414 K. Lot width. The horizontal distance between the side lines of a lot measured at the front building
415 setback line, or at the front property line where no front setback is required.
416

417
418 L. Setback. A setback is the minimum horizontal distance between a structure and a property line.
419 Setbacks shall extend and be measured perpendicular and inward from the respective property lines.
420

421 **Section 1.16. Interpretation of zoning district boundaries.**
422

423 Zoning district boundaries are usually depicted along streets, alleys, shorelines, property lines, or
424 extensions thereof. Where an uncertainty exists with respect to the boundaries of districts as shown on
425 the Official Zoning Map, the following rules shall apply:
426

427 A. Centerlines. Boundaries indicated as approximately following the centerlines of streets, highways, or
428 alleys shall be construed to follow such centerlines;
429

430 B. Lot, section, and tract lines. Boundaries indicated as approximately following platted lot lines shall be
431 construed as following such lot lines;
432

433 C. Political boundaries. Boundaries indicated as approximately following City limits shall be construed as
434 following City limits;
435

436 D. Shorelines. Boundaries indicated as following shorelines shall be construed to follow such shorelines.
437 In the event of a change in the shoreline, the zoning district boundary shall be construed as moving
438 with the actual shoreline. Boundaries indicated as approximately following the centerline of streams,
439 rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;
440

441 E. Vacations. Whenever any street, alley, or other public way is vacated by official action of the City
442 Council, the zoning district of the property abutting each side of the street, alley, or public way shall
443 be automatically extended to the center of such vacation and all area included within the vacation
444 shall thereafter be subject to all regulations of the extended districts;
445

446 F. Filled lands. Where land is built-up by fill upon areas formerly submerged under water, the district
447 regulations applying to the land immediately adjoining such built-up land shall be automatically
448 extended thereto;
449

450 G. Parallel lines. Boundaries indicated as parallel to or extensions of features indicated in subsections A
451 through F of this section shall be so construed. Distances not specifically indicated on the official
452 zoning map shall be determined by the scale of the map;
453

454 H. Bisecting lines. Where district boundary lines approximately bisect blocks, the boundaries are the
455 median line of such blocks, between the centerlines of boundary streets;
456

457 I. Uncertainties. Where physical or cultural features existing on the ground are at variance with those
458 shown on the official zoning map or if any other uncertainty exists, the Director of Community

**CITY OF CAPE CORAL, FLORIDA
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ARTICLE 1 - GENERAL PROVISIONS**

459 Development shall interpret the intent of the official zoning map as to the location of district
460 boundaries; and

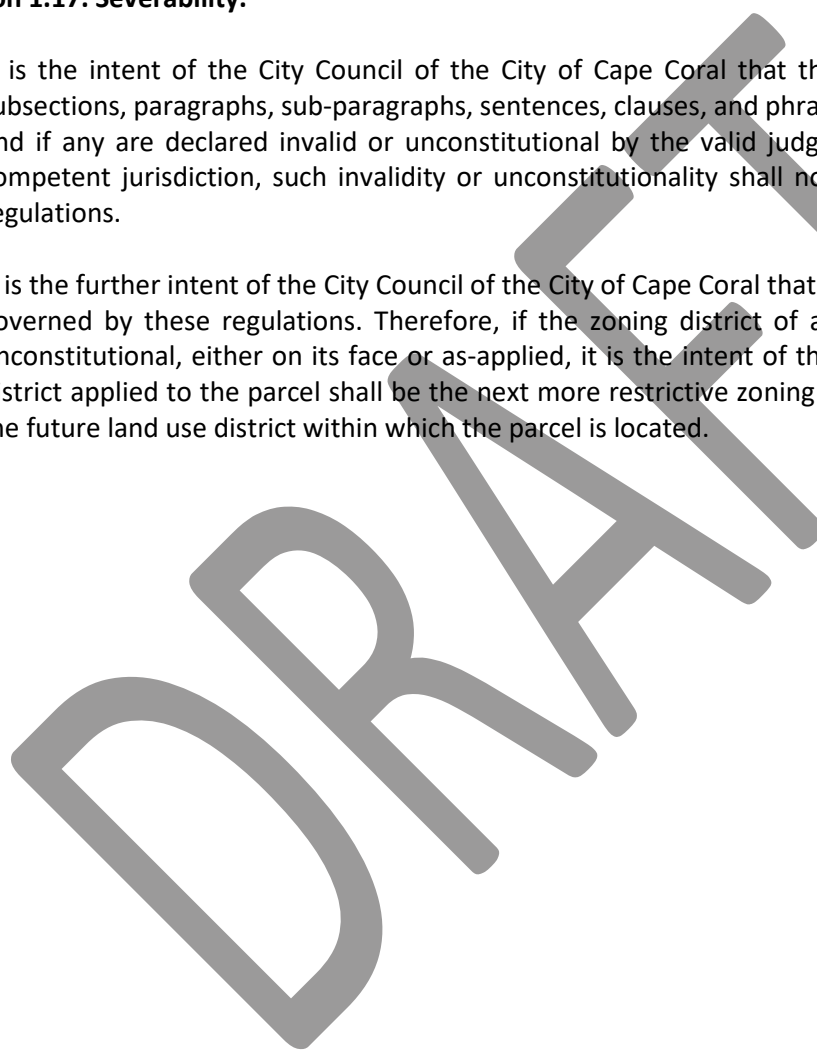
461
462 J. Excluded areas. Where land or water areas have been inadvertently excluded from a zoning district
463 classification in any manner, such areas shall be classified in conformance with the most restrictive
464 zoning district which abuts the excluded area until or unless changed pursuant to amendment
465 procedures set forth in Article 3, Sec. 3.4.5.

466
467 **Section 1.17. Severability.**

468
469 A. It is the intent of the City Council of the City of Cape Coral that the articles, chapters, sections,
470 subsections, paragraphs, sub-paragraphs, sentences, clauses, and phrases of this Code are severable,
471 and if any are declared invalid or unconstitutional by the valid judgment or decree of a court of
472 competent jurisdiction, such invalidity or unconstitutionality shall not affect the balance of these
473 regulations.

474
475 B. It is the further intent of the City Council of the City of Cape Coral that all property within the City be
476 governed by these regulations. Therefore, if the zoning district of a parcel is declared invalid or
477 unconstitutional, either on its face or as-applied, it is the intent of the City Council that the zoning
478 district applied to the parcel shall be the next more restrictive zoning district that is consistent with
479 the future land use district within which the parcel is located.

480



**CITY OF CAPE CORAL, FLORIDA
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ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES**

CHAPTER 1. PLANNING AND ZONING COMMISSION

- Section 2.21.1.1.** Powers and duties
- Section 2.21.2.** Membership; vacancy; compensation
- Section 2.21.3.** Meetings, Quorum; Required vote
- Section 2.21.4.** Staff; Attorney
- Section 2.21.5.** Rules and records

CHAPTER 32. HEARING EXAMINER

- Section 2.32.1.** Establishment
- Section 2.32.2.** Appointment of Hearing Examiner(s); Vacancy; Recusal
- Section 2.32.3.** Exercise of power; powers and duties
- Section 2.32.4.** City Attorney; City Clerk
- Section 2.32.5.** Decisions; Recommendations

CHAPTER 43. ADMINISTRATIVE DECISION MAKERS AND ENFORCEMENT OFFICERS

- Section 2.43.1.** City Manager
- Section 2.43.2.** Department of Community Development
- Section 2.43.3.** Community Development Director
- Section 2.43.4.** Building Official
- Section 2.43.5.** Planning Manager
- Section 2.43.6.** Public Works Director
- Section 2.43.7.** Development Services Manager
- Section 2.43.8.** Code Enforcement Manager

CHAPTER 1. PLANNING AND ZONING COMMISSION

Section 21.1.1. Powers and duties.

- A. Pursuant to and in accordance with F.S. § 163.3174 of the Local Government Comprehensive Planning and Land Development Regulation Act, as amended, the City Council finds that planning of land use and continuing growth management evaluation within the City is a public purpose benefiting the safety, economic well-being, and cultural welfare of the citizens of the City. The City Council further finds that this public purpose can best be achieved by establishing the Planning and Zoning Commission, which is established and designated as the local planning agency (LPA) for the City.
- B. Pursuant to and in accordance with F.S. § 163.3175(5) and F.S. § 163.3177(1) of the Local Government Comprehensive Planning and Land Development Regulation Act, the City Council finds that there is a public purpose in coordinating the planning of the City with the Lee County School Board.
- C. The Planning and Zoning Commission/Local Planning Agency (hereinafter Commission) shall have the authority and responsibility to review land use in the City and evaluate planning and regulatory techniques for resolving physical, economic, social, environmental and fiscal issues. The City Council directs the Commission to carry out functions and powers identified in the Land Development Code.

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ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES

47 The Commission shall use the power and authority conferred upon it by the Land Development Code
48 to further its stated public purpose.

49
50 D. Any power or duty delegated by the City Council.

51
52 **Section 2.21.2. Membership; vacancy; compensation.**

53
54 A. Membership. The Commission shall consist of seven members. All members shall be residents of the
55 City and will be appointed by a majority vote of the City Council. The term of office for each member
56 shall be three years. Terms of office shall commence on the first day of March of the year in which
57 appointed. In addition to the seven members, two alternate members shall be appointed by a majority
58 vote of the City Council to serve as alternates for the term of one year. Alternate members shall be
59 residents of the City. Alternate members shall substitute for absent members on a rotating basis.
60 When substituting for an absent member, an alternate member may vote and participate in all
61 discussions of the Commission in the same manner and to the same extent as the other members of
62 the Commission. When not substituting for an absent member(s), alternate members shall not vote
63 on any matter, but may participate in all discussions in the same manner and to the same extent as
64 the other members. Alternate members shall have the same attendance requirements as the other
65 members of the Commission. Board members and alternate members shall be subject to the
66 forfeiture of office provisions of Section 2.58 of the Cape Coral Code of Ordinances. Whenever a
67 vacancy occurs on the Commission, the city shall fill the vacancy for the remainder of the term as soon
68 as practicable after the vacancy occurs.

69
70 B. Vacancies.

71
72 1. If a vacancy occurs on the Commission as the result of the resignation, death, or removal of a
73 member, the senior alternate member shall temporarily fill such vacancy without action by the
74 City Council, until the City Council appoints a successor regular member. In the event both
75 alternates have served for the same continuous period of time then the alternate who is next
76 scheduled to substitute for an absent regular member according to the rotation schedule shall
77 temporarily fill the vacancy until the City Council appoints a successor regular member. In the
78 event that the alternate member dies, resigns, is removed, or becomes a member, the City Council
79 shall promptly appoint a qualified person to the unexpired term of the alternate.

80
81 2. In the event a vacancy occurs on the Commission; an alternate member may apply to be a regular
82 member in the same manner as other applicants. In the event an alternate member is appointed
83 to be regular member, then such appointment shall simultaneously terminate such person's
84 position as an alternate member. In that event, the City Council may then appoint another person
85 to fill the resulting alternate member vacancy.

86
87 C. Compensation. Members of the Commission shall receive no salary for their services, but may receive
88 such travel and other expenses while on official business for the City as are made available by the City
89 Council for these purposes.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES**

94 **Section 2.21.3. Meetings; Quorum; Required vote.**
95

- 96 A. Meetings. The Commission shall schedule and hold at least one public hearing each month unless
97 there is no business to transact for the regular meeting date. The Commission shall also meet at the
98 call of the chairperson and other times as may be determined by a majority of the Commission.
99
- 100 B. Quorum. Four voting members of the Commission shall constitute a quorum for the transaction of
101 business, but a smaller number may act only to adjourn meetings for lack of a quorum. The affirmative
102 vote of a majority of the quorum shall be required to pass any action of the Commission.
103
- 104 C. Officers. The Commission shall annually elect a chairperson and a vice-chairperson from among its
105 members. All officers shall be elected for one-year terms and shall be eligible for re-election.
106

107 **Section 2.21.4. Staff; Attorney.**
108

- 109 A. Staff. The City Manager shall provide staff support necessary to the planning functions of the
110 Commission and provide secretarial support for the Commission in the execution of its duties and to
111 record and transcribe in summary form the minutes of all Commission meetings.
112
- 113 B. Attorney. The City Attorney shall serve as legal counsel to the Commission.
114

115 **Section 2.12.5. Rules and records.**
116

- 117 A. The Commission shall adopt its own rules of procedure as may be deemed necessary; provided such
118 rules shall not be contrary to the spirit and intent of the Land Development Code or to the policies of
119 the City. The Commission shall keep minutes of its meetings and records of all transactions and
120 deliberations. Such minutes and records shall be filed in the appropriate offices of the City and shall
121 be public records.
122
- 123 B. All meetings of the Commission shall be open to the public.
124
- 125 C. The Commission shall set up rules of procedure to monitor and oversee the effectiveness and status
126 of the Comprehensive Plan in order to make any recommendation to the City Council for changes in
127 the Comprehensive Plan as may from time to time be required consistent with the intent and purposes
128 of the Cape Coral Land Development Code relating to the Comprehensive Plan.
129

130 **CHAPTER 32. HEARING EXAMINER**
131

132 **Section 2.32.1. Establishment.**
133

134 There is hereby created a Hearing Examiner with authority to conduct quasi-judicial and other hearings in
135 accordance with provisions of this code in an equitable, expeditious, and effective manner. Nothing in this
136 section shall prohibit the City Council from enforcing any code by other means.
137

138 **Section 2.32.2. Appointment of Hearing Examiner(s); Vacancy; Recusal.**
139

- 140 A. The city shall utilize the services of one or more Hearing Examiner(s) to conduct quasi-judicial hearings

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141 in accordance with provisions of this code.

142

143 B. The City Council shall appoint at least one qualified person to serve as the Hearing Examiner, and may
144 appoint at least one qualified person to serve as an alternate Hearing Examiner.

145

146 C. The appointment(s) shall be in the sole discretion of the City Council. However, any person appointed
147 to the position of Hearing Examiner must be an attorney duly licensed by the Florida Bar Association
148 to practice law in the State of Florida. Appointment(s) shall be made by written contract approved by
149 the City Council. The contract shall set out the terms and conditions, including compensation, travel,
150 mileage, and any additional powers and duties delegated or assigned to the Hearing Examiner.
151 Although appointed by contract, Hearing Examiners shall be subject to removal, with or without
152 cause, at any time during their term by the City Council in its sole discretion.

153

154 D. Hearing Examiners shall not be considered to be city employees.

155

156 E. If a Hearing Examiner vacancy occurs as a result of resignation, death, removal, or the Hearing
157 Examiner recuses, disqualifies himself or herself, or does not otherwise hear a particular case, and an
158 alternate Hearing Examiner is unavailable or otherwise unable to hear a case, these cases shall be
159 heard by the Planning and Zoning Commission in an advisory capacity and then heard by the City
160 Council for the final decision.

161

162 **Section 2.32.3 Exercise of power; powers and duties.**

163

164 A. Exercise of power. In exercising its powers, a Hearing Examiner may, upon appeal and in conformity
165 with the provisions of this code, reverse or affirm, wholly or partly, or may modify the order,
166 recommendation, requirement, decision, or determination made by the Director or an administrative
167 official in the application, interpretation, or enforcement of this code and may make any necessary
168 order, recommendation, requirement, decision, or determination, and to that end shall have all the
169 powers of the administrative official from whom the appeal is taken.

170

171 B. Powers and duties. A Hearing Examiner shall hear and decide or, when applicable, make
172 recommendations, on the following:

173

174 1. Applications for special exceptions;

175

176 2. Applications for variances. The Hearing Examiner may impose any reasonable conditions or
177 restrictions on a variance it decides to grant;

178

179 3. Applications for deviations;

180

181 4. Applications for vacations;

182

183 5. Applications for rezoning property;

184

185 6. Applications for PUD master control plans; and

186

187 7. Appeals of administrative decisions under the Land Development Code.

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Section 2.32.4. City Attorney; City Clerk.

- A. City Attorney. The City Attorney is the legal officer for the city. Because only attorneys may hold the position of Hearing Examiner, the city shall not be required to provide legal representation to the Hearing Examiner(s).
- B. City Clerk. The City Clerk, shall attend all hearings and record (audio, video, or both) all hearings. The city shall retain the original recording(s) in accordance with the laws of the State of Florida, and, if requested, provide a duplicate of the recording(s) to the Hearing Examiner.

Section 2.32.5. Decisions; Recommendations.

The Hearing Examiner shall provide the City Clerk with all original decisions or recommendations for transmission to the applicant or if the applicant is the city, to the Director of Community Development and City Attorney.

CHAPTER 43. ADMINISTRATIVE DECISION MAKERS AND ENFORCEMENT OFFICERS

Section 2.43.1. City Manager.

The City Manager is the chief executive officer for the City of Cape Coral with ultimate authority over the implementation of these regulations. The City Manager has the authority to delegate his authority to City staff as necessary for the effective administration and enforcement of the regulations.

Section 2.43.2. Department of Community Development.

The Department of Community Development is the City department charged with administration and enforcement of the Land Development Code.

Section 2.43.3. Community Development Director.

The Community Development Director is responsible for the administration of these regulations. Specifically, the Community Development Director is responsible for receiving applications for development approval, determining whether they are complete, and coordinating review of the applications. The Community Development Director shall have administrative responsibility to interpret the Land Development Code.

Section 2.34.4. Building Official.

The Building Official is responsible for the implementation of the various building codes adopted pursuant to the Florida Building Code and other applicable state statutes. The Building Official issues building permits and certificates of occupancy, upon a determination by the City of compliance of permit applications with the City regulations and any prior approvals by the City.

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235 **Section 2.43.5. Planning Manager.**
236

237 The Planning Manager is responsible for duties under this Code or as assigned by the Community
238 Development Director. The Planning Manager is responsible for the implementation and interpretation
239 of the Land Development Code.
240

241 **Section 2.43.6. Public Works Director.**
242

243 The Public Works Director is charged with the development and maintenance of the City's Engineering
244 Design Standards and implementation related to City maintained facilities.
245

246 **Section 2.43.7. Development Services Manager.**
247

248 The Development Services Manager is responsible for the review and approval of applications for land
249 development permits. The Development Services Manager reviews and approves Site Development Plans,
250 Preliminary Subdivisions, Construction Plan approvals, Development Permits, and Certificates of
251 Completion.
252

253 **Section 2.43.8. Code Enforcement Manager.**
254

254 The Code Enforcement Officer is charged with the initiation of and prosecution of enforcement actions
255 pursuant to Chapter 2, Article 5, Divisions 3 and 4 of the City of Cape Coral Code of Ordinances.

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ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES**

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CHAPTER 1. PLANNING AND ZONING COMMISSION

Section 21.1.1. Powers and duties.

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- B. Pursuant to and in accordance with F.S. § 163.3175(5) and F.S. § 163.3177(1) of the Local Government Comprehensive Planning and Land Development Regulation Act, the City Council finds that there is a public purpose in coordinating the planning of the City with the Lee County School Board.
- C. The Planning and Zoning Commission/Local Planning Agency (hereinafter Commission) shall have the authority and responsibility to review land use in the City and evaluate planning and regulatory techniques for resolving physical, economic, social, environmental and fiscal issues. The City Council directs the Commission to carry out functions and powers identified in the Land Development Code.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES

47 The Commission shall use the power and authority conferred upon it by the Land Development Code
48 to further its stated public purpose.

49
50 D. Any power or duty delegated by the City Council.

51
52 **Section 2.21.2. Membership; vacancy; compensation.**

53
54 A. Membership. The Commission shall consist of seven members. All members shall be residents of the
55 City and will be appointed by a majority vote of the City Council. The term of office for each member
56 shall be three years. Terms of office shall commence on the first day of March of the year in which
57 appointed. In addition to the seven members, two alternate members shall be appointed by a majority
58 vote of the City Council to serve as alternates for the term of one year. Alternate members shall be
59 residents of the City. Alternate members shall substitute for absent members on a rotating basis.
60 When substituting for an absent member, an alternate member may vote and participate in all
61 discussions of the Commission in the same manner and to the same extent as the other members of
62 the Commission. When not substituting for an absent member(s), alternate members shall not vote
63 on any matter, but may participate in all discussions in the same manner and to the same extent as
64 the other members. Alternate members shall have the same attendance requirements as the other
65 members of the Commission. Board members and alternate members shall be subject to the
66 forfeiture of office provisions of Section 2.58 of the Cape Coral Code of Ordinances. Whenever a
67 vacancy occurs on the Commission, the city shall fill the vacancy for the remainder of the term as soon
68 as practicable after the vacancy occurs.

69
70 B. Vacancies.

71
72 1. If a vacancy occurs on the Commission as the result of the resignation, death, or removal of a
73 member, the senior alternate member shall temporarily fill such vacancy without action by the
74 City Council, until the City Council appoints a successor regular member. In the event both
75 alternates have served for the same continuous period of time then the alternate who is next
76 scheduled to substitute for an absent regular member according to the rotation schedule shall
77 temporarily fill the vacancy until the City Council appoints a successor regular member. In the
78 event that the alternate member dies, resigns, is removed, or becomes a member, the City Council
79 shall promptly appoint a qualified person to the unexpired term of the alternate.

80
81 2. In the event a vacancy occurs on the Commission; an alternate member may apply to be a regular
82 member in the same manner as other applicants. In the event an alternate member is appointed
83 to be regular member, then such appointment shall simultaneously terminate such person's
84 position as an alternate member. In that event, the City Council may then appoint another person
85 to fill the resulting alternate member vacancy.

86
87 C. Compensation. Members of the Commission shall receive no salary for their services, but may receive
88 such travel and other expenses while on official business for the City as are made available by the City
89 Council for these purposes.

**CITY OF CAPE CORAL, FLORIDA
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95

- 96 A. Meetings. The Commission shall schedule and hold at least one public hearing each month unless
97 there is no business to transact for the regular meeting date. The Commission shall also meet at the
98 call of the chairperson and other times as may be determined by a majority of the Commission.
99
- 100 B. Quorum. Four voting members of the Commission shall constitute a quorum for the transaction of
101 business, but a smaller number may act only to adjourn meetings for lack of a quorum. The affirmative
102 vote of a majority of the quorum shall be required to pass any action of the Commission.
103
- 104 C. Officers. The Commission shall annually elect a chairperson and a vice-chairperson from among its
105 members. All officers shall be elected for one-year terms and shall be eligible for re-election.
106

107 **Section 2.21.4. Staff; Attorney.**
108

- 109 A. Staff. The City Manager shall provide staff support necessary to the planning functions of the
110 Commission and provide secretarial support for the Commission in the execution of its duties and to
111 record and transcribe in summary form the minutes of all Commission meetings.
112
- 113 B. Attorney. The City Attorney shall serve as legal counsel to the Commission.
114

115 **Section 2.12.5. Rules and records.**
116

- 117 A. The Commission shall adopt its own rules of procedure as may be deemed necessary; provided such
118 rules shall not be contrary to the spirit and intent of the Land Development Code or to the policies of
119 the City. The Commission shall keep minutes of its meetings and records of all transactions and
120 deliberations. Such minutes and records shall be filed in the appropriate offices of the City and shall
121 be public records.
122
- 123 B. All meetings of the Commission shall be open to the public.
124
- 125 C. The Commission shall set up rules of procedure to monitor and oversee the effectiveness and status
126 of the Comprehensive Plan in order to make any recommendation to the City Council for changes in
127 the Comprehensive Plan as may from time to time be required consistent with the intent and purposes
128 of the Cape Coral Land Development Code relating to the Comprehensive Plan.
129

130 **CHAPTER 32. HEARING EXAMINER**
131

132 **Section 2.32.1. Establishment.**
133

134 There is hereby created a Hearing Examiner with authority to conduct quasi-judicial and other hearings in
135 accordance with provisions of this code in an equitable, expeditious, and effective manner. Nothing in this
136 section shall prohibit the City Council from enforcing any code by other means.
137

138 **Section 2.32.2. Appointment of Hearing Examiner(s); Vacancy; Recusal.**
139

- 140 A. The city shall utilize the services of one or more Hearing Examiner(s) to conduct quasi-judicial hearings

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141 in accordance with provisions of this code.

142

143 B. The City Council shall appoint at least one qualified person to serve as the Hearing Examiner, and may
144 appoint at least one qualified person to serve as an alternate Hearing Examiner.

145

146 C. The appointment(s) shall be in the sole discretion of the City Council. However, any person appointed
147 to the position of Hearing Examiner must be an attorney duly licensed by the Florida Bar Association
148 to practice law in the State of Florida. Appointment(s) shall be made by written contract approved by
149 the City Council. The contract shall set out the terms and conditions, including compensation, travel,
150 mileage, and any additional powers and duties delegated or assigned to the Hearing Examiner.
151 Although appointed by contract, Hearing Examiners shall be subject to removal, with or without
152 cause, at any time during their term by the City Council in its sole discretion.

153

154 D. Hearing Examiners shall not be considered to be city employees.

155

156 E. If a Hearing Examiner vacancy occurs as a result of resignation, death, removal, or the Hearing
157 Examiner recuses, disqualifies himself or herself, or does not otherwise hear a particular case, and an
158 alternate Hearing Examiner is unavailable or otherwise unable to hear a case, these cases shall be
159 heard by the Planning and Zoning Commission in an advisory capacity and then heard by the City
160 Council for the final decision.

161

162 **Section 2.32.3 Exercise of power; powers and duties.**

163

164 A. Exercise of power. In exercising its powers, a Hearing Examiner may, upon appeal and in conformity
165 with the provisions of this code, reverse or affirm, wholly or partly, or may modify the order,
166 recommendation, requirement, decision, or determination made by the Director or an administrative
167 official in the application, interpretation, or enforcement of this code and may make any necessary
168 order, recommendation, requirement, decision, or determination, and to that end shall have all the
169 powers of the administrative official from whom the appeal is taken.

170

171 B. Powers and duties. A Hearing Examiner shall hear and decide or, when applicable, make
172 recommendations, on the following:

173

174 1. Applications for special exceptions;

175

176 2. Applications for variances. The Hearing Examiner may impose any reasonable conditions or
177 restrictions on a variance it decides to grant;

178

179 3. Applications for deviations;

180

181 4. Applications for vacations;

182

183 5. Applications for rezoning property;

184

185 6. Applications for PUD master control plans; and

186

187 7. Appeals of administrative decisions under the Land Development Code.

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Section 2.32.4. City Attorney; City Clerk.

- A. City Attorney. The City Attorney is the legal officer for the city. Because only attorneys may hold the position of Hearing Examiner, the city shall not be required to provide legal representation to the Hearing Examiner(s).
- B. City Clerk. The City Clerk, shall attend all hearings and record (audio, video, or both) all hearings. The city shall retain the original recording(s) in accordance with the laws of the State of Florida, and, if requested, provide a duplicate of the recording(s) to the Hearing Examiner.

Section 2.32.5. Decisions; Recommendations.

The Hearing Examiner shall provide the City Clerk with all original decisions or recommendations for transmission to the applicant or if the applicant is the city, to the Director of Community Development and City Attorney.

CHAPTER 43. ADMINISTRATIVE DECISION MAKERS AND ENFORCEMENT OFFICERS

Section 2.43.1. City Manager.

The City Manager is the chief executive officer for the City of Cape Coral with ultimate authority over the implementation of these regulations. The City Manager has the authority to delegate his authority to City staff as necessary for the effective administration and enforcement of the regulations.

Section 2.43.2. Department of Community Development.

The Department of Community Development is the City department charged with administration and enforcement of the Land Development Code.

Section 2.43.3. Community Development Director.

The Community Development Director is responsible for the administration of these regulations. Specifically, the Community Development Director is responsible for receiving applications for development approval, determining whether they are complete, and coordinating review of the applications. The Community Development Director shall have administrative responsibility to interpret the Land Development Code.

Section 2.34.4. Building Official.

The Building Official is responsible for the implementation of the various building codes adopted pursuant to the Florida Building Code and other applicable state statutes. The Building Official issues building permits and certificates of occupancy, upon a determination by the City of compliance of permit applications with the City regulations and any prior approvals by the City.

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235 **Section 2.43.5. Planning Manager.**
236

237 The Planning Manager is responsible for duties under this Code or as assigned by the Community
238 Development Director. The Planning Manager is responsible for the implementation and interpretation
239 of the Land Development Code.
240

241 **Section 2.43.6. Public Works Director.**
242

243 The Public Works Director is charged with the development and maintenance of the City's Engineering
244 Design Standards and implementation related to City maintained facilities.
245

246 **Section 2.43.7. Development Services Manager.**
247

248 The Development Services Manager is responsible for the review and approval of applications for land
249 development permits. The Development Services Manager reviews and approves Site Development Plans,
250 Preliminary Subdivisions, Construction Plan approvals, Development Permits, and Certificates of
251 Completion.
252

253 **Section 2.43.8. Code Enforcement Manager.**
254

254 The Code Enforcement Officer is charged with the initiation of and prosecution of enforcement actions
255 pursuant to Chapter 2, Article 5, Divisions 3 and 4 of the City of Cape Coral Code of Ordinances.

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CHAPTER 1. PLANNING AND ZONING COMMISSION

- Section 2.1.1.** Powers and duties
- Section 2.1.2.** Membership; vacancy; compensation
- Section 2.1.3.** Meetings, Quorum; Required vote
- Section 2.1.4.** Staff; Attorney
- Section 2.1.5.** Rules and records

CHAPTER 2. HEARING EXAMINER

- Section 2.2.1.** Establishment
- Section 2.2.2.** Appointment of Hearing Examiner(s); Vacancy; Recusal
- Section 2.2.3.** Exercise of power; powers and duties
- Section 2.2.4.** City Attorney; City Clerk
- Section 2.2.5.** Decisions; Recommendations

CHAPTER 3. ADMINISTRATIVE DECISION MAKERS AND ENFORCEMENT OFFICERS

- Section 2.3.1.** City Manager
- Section 2.3.2.** Department of Community Development
- Section 2.3.3.** Community Development Director
- Section 2.3.4.** Building Official
- Section 2.3.5.** Planning Manager
- Section 2.3.6.** Public Works Director
- Section 2.3.7.** Development Services Manager
- Section 2.3.8.** Code Enforcement Manager

CHAPTER 1. PLANNING AND ZONING COMMISSION

Section 2.1.1. Powers and duties.

- A. Pursuant to and in accordance with F.S. § 163.3174 of the Local Government Comprehensive Planning and Land Development Regulation Act, as amended, the City Council finds that planning of land use and continuing growth management evaluation within the City is a public purpose benefiting the safety, economic well-being, and cultural welfare of the citizens of the City. The City Council further finds that this public purpose can best be achieved by establishing the Planning and Zoning Commission, which is established and designated as the local planning agency (LPA) for the City.
- B. Pursuant to and in accordance with F.S. § 163.3175(5) and F.S. § 163.3177(1) of the Local Government Comprehensive Planning and Land Development Regulation Act, the City Council finds that there is a public purpose in coordinating the planning of the City with the Lee County School Board.
- C. The Planning and Zoning Commission/Local Planning Agency (hereinafter Commission) shall have the authority and responsibility to review land use in the City and evaluate planning and regulatory techniques for resolving physical, economic, social, environmental and fiscal issues. The City Council directs the Commission to carry out functions and powers identified in the Land Development Code.

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47 The Commission shall use the power and authority conferred upon it by the Land Development Code
48 to further its stated public purpose.
49

50 D. Any power or duty delegated by the City Council.
51

52 **Section 2.1.2. Membership; vacancy; compensation.**
53

54 A. Membership. The Commission shall consist of seven members. All members shall be residents of the
55 City and will be appointed by a majority vote of the City Council. The term of office for each member
56 shall be three years, or until a successor is appointed. Terms of office shall commence on the first day
57 of March of the year in which appointed. In addition to the seven members, two alternate members
58 shall be appointed by a majority vote of the City Council to serve as alternates for the term of one
59 year, or until a successor is appointed. Alternate members shall be residents of the City. Alternate
60 members shall substitute for absent members on a rotating basis. When substituting for an absent
61 member, an alternate member may vote and participate in all discussions of the Commission in the
62 same manner and to the same extent as the other members of the Commission. When not
63 substituting for an absent member(s), alternate members shall not vote on any matter, but may
64 participate in all discussions in the same manner and to the same extent as the other members.
65 Alternate members shall have the same attendance requirements as the other members of the
66 Commission. Board members and alternate members shall be subject to the forfeiture of office
67 provisions of Section 2.58 of the Cape Coral Code of Ordinances. Whenever a vacancy occurs on the
68 Commission, the city shall fill the vacancy for the remainder of the term as soon as practicable after
69 the vacancy occurs.
70

71 B. Vacancies.
72

73 1. If a vacancy occurs on the Commission as the result of the resignation, death, or removal of a
74 member, the senior alternate member shall temporarily fill such vacancy without action by the
75 City Council, until the City Council appoints a successor regular member. In the event both
76 alternates have served for the same continuous period of time then the alternate who is next
77 scheduled to substitute for an absent regular member according to the rotation schedule shall
78 temporarily fill the vacancy until the City Council appoints a successor regular member. In the
79 event that the alternate member dies, resigns, is removed, or becomes a member, the City Council
80 shall promptly appoint a qualified person to the unexpired term of the alternate.
81

82 2. In the event a vacancy occurs on the Commission; an alternate member may apply to be a regular
83 member in the same manner as other applicants. In the event an alternate member is appointed
84 to be regular member, then such appointment shall simultaneously terminate such person's
85 position as an alternate member. In that event, the City Council may then appoint another person
86 to fill the resulting alternate member vacancy.
87

88 C. Compensation. Members of the Commission shall receive no salary for their services, but may receive
89 such travel and other expenses while on official business for the City as are made available by the City
90 Council for these purposes.
91
92

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES**

93 **Section 2.1.3. Meetings; Quorum; Required vote.**

- 94
- 95 A. Meetings. The Commission shall schedule and hold at least one public hearing each month unless
- 96 there is no business to transact for the regular meeting date. The Commission shall also meet at the
- 97 call of the chairperson and other times as may be determined by a majority of the Commission.
- 98
- 99 B. Quorum. Four voting members of the Commission shall constitute a quorum for the transaction of
- 100 business, but a smaller number may act only to adjourn meetings for lack of a quorum. The affirmative
- 101 vote of a majority of the quorum shall be required to pass any action of the Commission.
- 102
- 103 C. Officers. The Commission shall annually elect a chairperson and a vice-chairperson from among its
- 104 members. All officers shall be elected for one-year terms and shall be eligible for re-election.
- 105

106 **Section 2.1.4. Staff; Attorney.**

- 107
- 108 A. Staff. The City Manager shall provide staff support necessary to the planning functions of the
- 109 Commission and provide secretarial support for the Commission in the execution of its duties and to
- 110 record and transcribe in summary form the minutes of all Commission meetings.
- 111
- 112 B. Attorney. The City Attorney shall serve as legal counsel to the Commission.
- 113

114 **Section 2.1.5. Rules and records.**

- 115
- 116 A. The Commission shall adopt its own rules of procedure as may be deemed necessary; provided such
- 117 rules shall not be contrary to the spirit and intent of the Land Development Code or to the policies of
- 118 the City. The Commission shall keep minutes of its meetings and records of all transactions and
- 119 deliberations. Such minutes and records shall be filed in the appropriate offices of the City and shall
- 120 be public records.
- 121
- 122 B. All meetings of the Commission shall be open to the public.
- 123
- 124 C. The Commission shall set up rules of procedure to monitor and oversee the effectiveness and status
- 125 of the Comprehensive Plan in order to make any recommendation to the City Council for changes in
- 126 the Comprehensive Plan as may from time to time be required consistent with the intent and purposes
- 127 of the Cape Coral Land Development Code relating to the Comprehensive Plan.
- 128

129 **CHAPTER 2. HEARING EXAMINER**

130

131 **Section 2.2.1. Establishment.**

132

133 There is hereby created a Hearing Examiner with authority to conduct quasi-judicial and other hearings in

134 accordance with provisions of this code in an equitable, expeditious, and effective manner. Nothing in this

135 section shall prohibit the City Council from enforcing any code by other means.

136

137

138

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139 **Section 2.2.2. Appointment of Hearing Examiner(s); Vacancy: Recusal.**

- 140
- 141 A. The city shall utilize the services of one or more Hearing Examiner(s) to conduct quasi-judicial hearings
- 142 in accordance with provisions of this code.
- 143
- 144 B. The City Council shall appoint at least one qualified person to serve as the Hearing Examiner, and may
- 145 appoint at least one qualified person to serve as an alternate Hearing Examiner.
- 146
- 147 C. The appointment(s) shall be in the sole discretion of the City Council. However, any person appointed
- 148 to the position of Hearing Examiner must be an attorney duly licensed by the Florida Bar Association
- 149 to practice law in the State of Florida. Appointment(s) shall be made by written contract approved by
- 150 the City Council. The contract shall set out the terms and conditions, including compensation, travel,
- 151 mileage, and any additional powers and duties delegated or assigned to the Hearing Examiner.
- 152 Although appointed by contract, Hearing Examiners shall be subject to removal, with or without
- 153 cause, at any time during their term by the City Council in its sole discretion.
- 154
- 155 D. Hearing Examiners shall not be considered to be city employees.
- 156
- 157 E. If a Hearing Examiner vacancy occurs as a result of resignation, death, removal, or the Hearing
- 158 Examiner recuses, disqualifies himself or herself, or does not otherwise hear a particular case, and an
- 159 alternate Hearing Examiner is unavailable or otherwise unable to hear a case, these cases shall be
- 160 heard by the Planning and Zoning Commission in an advisory capacity and then heard by the City
- 161 Council for the final decision.
- 162

163 **Section 2.2.3 Exercise of power; powers and duties.**

- 164
- 165 A. Exercise of power. In exercising its powers, a Hearing Examiner may, upon appeal and in conformity
- 166 with the provisions of this code, reverse or affirm, wholly or partly, or may modify the order,
- 167 recommendation, requirement, decision, or determination made by the Director or an administrative
- 168 official in the application, interpretation, or enforcement of this code and may make any necessary
- 169 order, recommendation, requirement, decision, or determination, and to that end shall have all the
- 170 powers of the administrative official from whom the appeal is taken.
- 171
- 172 B. Powers and duties. A Hearing Examiner shall hear and decide or, when applicable, make
- 173 recommendations, on the following:
- 174
- 175 1. Applications for special exceptions;
- 176
- 177 2. Applications for variances. The Hearing Examiner may impose any reasonable conditions or
- 178 restrictions on a variance it decides to grant;
- 179
- 180 3. Applications for deviations;
- 181
- 182 4. Applications for vacations;
- 183
- 184 5. Applications for rezoning property;

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- 6. Applications for PUD master control plans; and
- 7. Appeals of administrative decisions under the Land Development Code.

Section 2.2.4. City Attorney; City Clerk.

- A. City Attorney. The City Attorney is the legal officer for the city. Because only attorneys may hold the position of Hearing Examiner, the city shall not be required to provide legal representation to the Hearing Examiner(s).
- B. City Clerk. The City Clerk, shall attend all hearings and record (audio, video, or both) all hearings. The city shall retain the original recording(s) in accordance with the laws of the State of Florida, and, if requested, provide a duplicate of the recording(s) to the Hearing Examiner.

Section 2.2.5. Decisions; Recommendations.

The Hearing Examiner shall provide the City Clerk with all original decisions or recommendations for transmission to the applicant or if the applicant is the city, to the Director of Community Development and City Attorney.

CHAPTER 3. ADMINISTRATIVE DECISION MAKERS AND ENFORCEMENT OFFICERS

Section 2.3.1. City Manager.

The City Manager is the chief executive officer for the City of Cape Coral with ultimate authority over the implementation of these regulations. The City Manager has the authority to delegate his authority to City staff as necessary for the effective administration and enforcement of the regulations.

Section 2.3.2. Department of Community Development.

The Department of Community Development is the City department charged with administration and enforcement of the Land Development Code.

Section 2.3.3. Community Development Director.

The Community Development Director is responsible for the administration of these regulations. Specifically, the Community Development Director is responsible for receiving applications for development approval, determining whether they are complete, and coordinating review of the applications. The Community Development Director shall have administrative responsibility to interpret the Land Development Code.

Section 2.3.4. Building Official.

The Building Official is responsible for the implementation of the various building codes adopted pursuant to the Florida Building Code and other applicable state statutes. The Building Official issues building

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231 permits and certificates of occupancy, upon a determination by the City of compliance of permit
232 applications with the City regulations and any prior approvals by the City.
233

234 **Section 2.3.5. Planning Manager.**
235

236 The Planning Manager is responsible for duties under this Code or as assigned by the Community
237 Development Director. The Planning Manager is responsible for the implementation and interpretation
238 of the Land Development Code.
239

240 **Section 2.3.6. Public Works Director.**
241

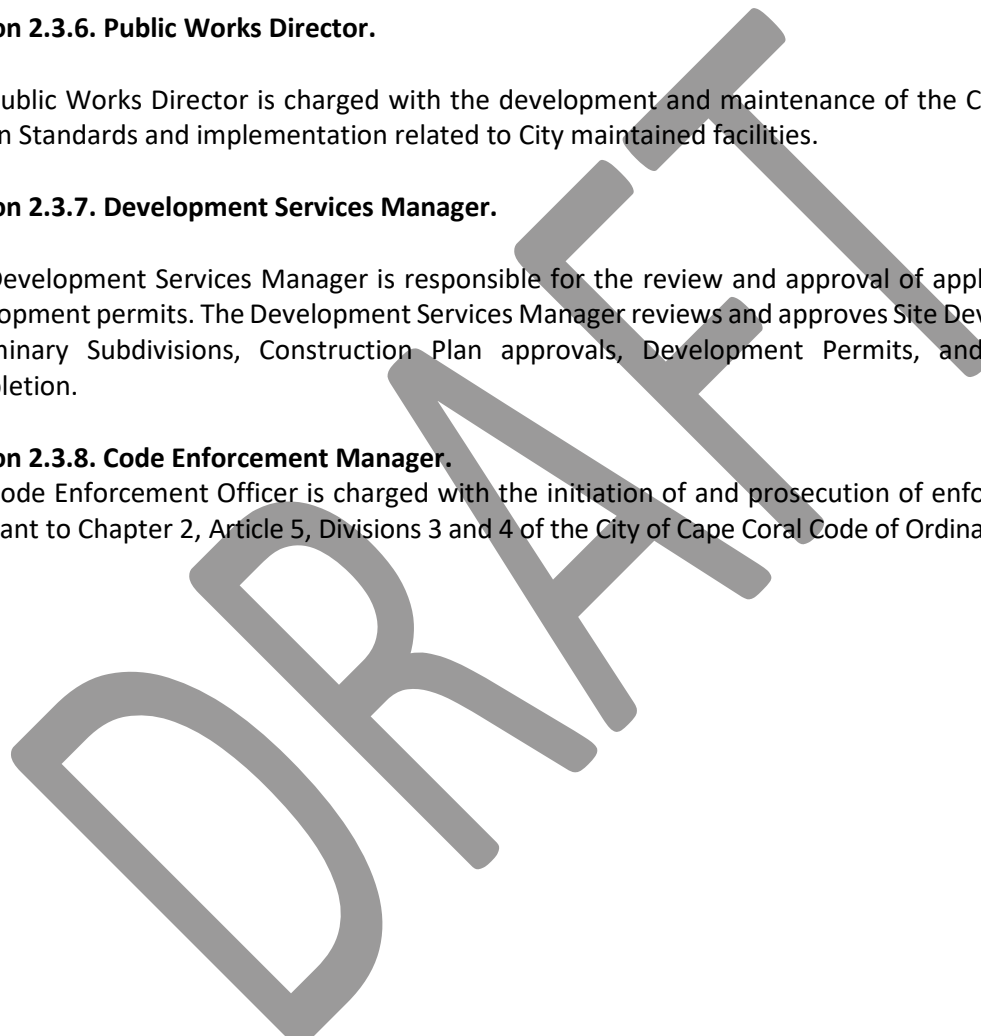
242 The Public Works Director is charged with the development and maintenance of the City's Engineering
243 Design Standards and implementation related to City maintained facilities.
244

245 **Section 2.3.7. Development Services Manager.**
246

247 The Development Services Manager is responsible for the review and approval of applications for land
248 development permits. The Development Services Manager reviews and approves Site Development Plans,
249 Preliminary Subdivisions, Construction Plan approvals, Development Permits, and Certificates of
250 Completion.
251

252 **Section 2.3.8. Code Enforcement Manager.**
253

253 The Code Enforcement Officer is charged with the initiation of and prosecution of enforcement actions
254 pursuant to Chapter 2, Article 5, Divisions 3 and 4 of the City of Cape Coral Code of Ordinances.



**City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review**

CHAPTER 1. DEVELOPMENT REVIEW PROCEDURES

- Section 3.1.1.** Purpose
- Section 3.1.2.** Classification of Development Review Procedures
- Section 3.1.3.** Development Approval Process; Table 3.1.3
- Section 3.1.4.** Application submittals
- Section 3.1.5.** Pre-application meetings
- Section 3.1.6.** Fee Required
- Section 3.1.7.** Complete Applications Required
- Section 3.1.8.** Review for Sufficiency and Code Requirements
- Section 3.1.9.** Decision- making
- Section 3.1.10.** Public Hearing Scheduling and Notice Requirements
- Section 3.1.11.** Public Hearing Procedures
- Section 3.1.12.** Decisions under this Article
- Section 3.1.13.** Conditions on Approvals
- Section 3.1.14.** Appeals

CHAPTER 2. GENERAL REVIEW PROCEDURES

- Section 3.2.1.** All Permits and Approvals

CHAPTER 3. SPECIFIC REVIEW PROCEDURES- ADMINISTRATIVE PERMITS AND APPROVALS

- Section 3.3.1.** Zoning Verification Letter of Flood Verification Letter
- Section 3.3.2.** Certificate of Zoning Compliance
- Section 3.3.3.** Administrative Interpretations and Similar Use Determinations
- Section 3.3.4.** Lots Splits and Lot Combines
- Section 3.3.5.** Conditional Uses
- Section 3.3.6.** Administrative Deviations
- Section 3.3.7.** Site Development and Subdivision Construction Plans
- Section 3.3.8.** Site Development Permits
- Section 3.3.9.** Temporary Use Permits
- Section 3.3.10.** Temporary Storage
- Section 3.3.11.** Seasonal Sales
- Section 3.3.12.** Construction Trailers
- Section 3.3.13.** Construction staging areas and post disaster debris staging
- Section 3.3.14.** Temporary sales offices
- Section 3.3.15.** Temporary Habitable structures
- Section 3.3.16.** Special Events
- Preliminary Subdivision Plans** (See Article 10)

CHAPTER 4. SPECIFIC REVIEW PROCEDURES – QUASI-JUDICIAL PERMITS AND APPROVALS

- Section 3.4.1.** General Requirements
- Section 3.4.2.** Deviations

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- 47 **Section 3.4.3.** Variances
- 48 **Section 3.4.4.** Special Exceptions
- 49 **Section 3.4.5.** Vacations of Plats, Easements, and Rights-of-way
- 50 **Section 3.4.6.** Rezones
- 51 **Section 3.4.7.** Planned Unit Developments (PUD)

52

53 **CHAPTER 5. SPECIFIC REVIEW PROCEDURES – LEGISLATIVE APPROVALS**

54

- 55 **Section 3.5.1.** Annexations
- 56 **Section 3.5.2.** Future Land Use Map Amendments
- 57 **Section 3.5.3.** Comprehensive Plan Text Amendments
- 58 **Section 3.5.4.** Land Development Code Text Amendments
- 59 **Plats** (See Article 10)

60

61 **CHAPTER 1. DEVELOPMENT REVIEW PROCEDURES**

62

63 **Section 3.1.1. Purpose.**

64

65 The purpose of this article is to establish the standards and procedures for review and approval of
66 proposed development within the City of Cape Coral, and to provide a development review process that
67 will be comprehensive, consistent, and efficient in the implementation of the goals, objectives, and
68 policies of the City of Cape Coral Comprehensive Plan and this Code.

69

70 **Section 3.1.2. Classification of Development Review Procedures**

71

72 All development applications under this Article are subject to the procedural review requirements in this
73 Chapter, unless otherwise exempted by the terms of this Article. Development applications are classified
74 according to the decision-making authority for each type of application, as set forth below.

75

76 A. Administrative. The following shall be treated as administrative decisions:

77

- 78 1. Zoning and Flood Zone Verification Letters
- 79 2. Certificates of Zoning Compliance
- 80 3. Administrative Interpretations and Similar Use Determinations
- 81 4. Sign Permits (See Article 6)
- 82 5. Lot Splits and Lot Combines
- 83 6. Conditional Uses
- 84 7. Master Concept Plan (PUD) Amendments
- 85 8. Administrative Deviations
- 86 9. Site Development and Subdivision Construction Plans
- 87 10. Preliminary Subdivision Plans (See Article 10)
- 88 11. Site Improvement Permits
- 89 12. Temporary Use Permits
 - 90 a. Special Events
 - 91 b. Temporary Storage
 - 92 c. Seasonal Sales

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- 93 d. Construction Trailers
- 94 e. Construction Staging Areas and Post Disaster Staging
- 95 f. Temporary Sales Offices
- 96 13. Reasonable Accommodations (See Article 13)
- 97
- 98 B. Quasi-judicial. The following shall be treated as quasi-judicial decisions:
- 99
- 100 1. Deviations (other than Administrative Deviations)
- 101 2. Variances
- 102 3. Special Exceptions
- 103 4. Vacations of Plats, Easements, and Rights-of-way
- 104 5. Rezones
- 105 6. Planned Unit Developments (PUDs) and Master Concept Plans
- 106 7. Appeals
- 107
- 108 C. Legislative. The following shall be treated as legislative decisions:
- 109
- 110 1. Annexations
- 111 2. Future Land Use Map Amendments
- 112 3. Comprehensive Plan Text Amendments
- 113 4. Land Development Code Text Amendments
- 114 5. Plats
- 115
- 116 D. Certain buildings, structures, improvements, and installations are exempted by the Florida Building Code
- 117 from building permit issuance, but must otherwise comply with the minimum requirements of this chapter.
- 118 Therefore, such buildings, structures, improvements, and installations shall be subject to review under the
- 119 Site Development Plan or Certificate of Zoning Compliance standards contained in this Article, as well as the
- 120 regulations of the underlying zoning district.
- 121
- 122 E. The Community Development Director shall have the authority to require a certificate of zoning compliance
- 123 or site improvement permit review for other buildings, structures, improvements and installations that are
- 124 newly created or come about by changes in the state or local building codes; or other improvements
- 125 deemed necessary for approval.
- 126

Section 3.1.3. Development Approval Process; Table 3.1.3

127
128
129 Table 3.1.3 shows the development review process, the decision-making authority for each type of
130 development approval; and the appeal authority for each type of decision.

City of Cape Coral, Florida
Land Development Code
Article 3 – Development Review

TABLE 3.1.3 DEVELOPMENT APPROVAL AND REQUIRED NOTICE								
Decision Maker				Notice				
D	Director	Recommendation	Decision Maker	Notice (Minimum 10 days prior to hearing)	Published	Mailed	Posted	
HEX	Hearing Examiner							
LPA	Planning and Zoning / Local Planning Agency							
CC	City Council							
SC	Superior Court							
Application Type								
Administrative	Zoning Verification Letters		D					
	Zoning Compliance Letters		D					
	Administrative Interpretations		D					
	Temporary Use Permits		D					
	Sign Permits		D					
	Lot Splits and Lot Combines		D					
	Subdivisions – Preliminary		D					
	Subdivisions – Final Plat		D					
	Conditional Uses		D					
	Administrative Deviations		D					
	Administrative Variances		D					
	Reasonable Accommodations		D					
	Business Tax Receipts		D					
	Site Development Plans		D					
PUD Amendments - Minor		D						
Quasi-Judicial	Deviations	D	HEX	✓	✓	✓	✓	
	Variances	D	HEX	✓	✓	✓	✓	
	Special Exceptions	D	HEX	✓	✓	✓	✓	
	Vacations – Easement/Lot/Plat	HEX	CC	✓	✓	✓	✓	
	Rezones	HEX	CC	✓	✓	✓	✓	
	PUDs	HEX	CC	✓	✓	✓	✓	
	PUD Amendments - Major	D	HEX	✓	✓	✓	✓	
	Appeals – Administrative		HEX	CC/SC	✓	✓	✓	✓
	Appeals – Quasi-Judicial		CC	SC	✓	✓	✓	✓
Appeals - Legislative		CC	SC	✓	✓	✓	✓	
Legislative	Annexations	D	CC	✓	✓	✓	✓	
	Future Land Use Map Amendments	LPA	CC	✓	✓			
	Comp Plan Text Amendments	LPA	CC	✓	✓			
	LDC Text Amendments	LPA	CC	✓	✓			

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Section 3.1.4. Application submittals.

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- A. Unless otherwise indicated by a specific provision of this Article, the applicant for a permit or approval under this Code must be the owner of the property that is the subject of the application or a duly authorized agent of the owner. An applicant who is a contract purchaser must provide proof that the applicant is an authorized agent of the property owner.
 - 1. For rezone and comprehensive plan amendments involving multiple properties or ownerships, the owners of at least fifty-one percent of the number of parcels or the land area included in the application, whichever is greater, must join in the application.
 - 2. For applications to vacate public rights-of-way or alleys, the owners of all parcels abutting the street or alley or portion thereof to be vacated must join in the application.
 - 3. For applications to vacate easements, all owners of parcels abutting the easement and all owners entitled to use of the easement to be vacated must join in the application.
 - 4. For applications to vacate any portion of a platted subdivision, all owners in the subdivision must join in the application.
- B. Unless otherwise indicated by a specific provision of this Article or another City ordinance or regulation, applications for permits and approvals under this Chapter shall be submitted to the Community Development Department.
- C. Applications shall contain all information required for the type of application being filed and shall include all plans, data, studies, or supporting documents required under this code or specified in the application forms.
- D. The Community Development Department shall establish application forms and submittal requirements for all development applications referenced in this Article.
- E. Applications for various approvals and permits may be submitted for concurrent or simultaneous review at the option and sole risk of the applicant. This provision shall not apply to any comprehensive plan amendments, rezones, or permit approvals associated with a proposed annexation into the City.
- F. Applications for permits or development approvals which have been made available as on-line may be required to file an on-line application only, as determined by the Director.
- G. The Community Development Director shall have the authority to require a zoning or site improvement permit review for other buildings, structures, improvements, or installations that are newly created or come about by changes in the state or local building codes; or other improvements deemed necessary for approval.

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182 **Section 3.1.5. Pre-application and Preliminary Design Review meetings.**

183
184 A. Upon request of an applicant, the director may schedule pre-application meetings with applicants and
185 appropriate City staff, for the purpose of reviewing proposed development prior to the formal
186 submission of an application. Applicants are encouraged, though not required, to request a pre-
187 application meeting. A pre-application meeting is required for Planned Unit Development
188 applications.

189
190 B. The pre-application meeting shall be informal, and its purpose shall be to discuss the proposals, views,
191 and concepts of the applicant. The purpose is also to discuss whether any additional information will
192 be required. Failure of staff to identify any required permits or procedures at a pre-application
193 meeting shall not relieve the applicant of any such requirements in this code or constitute waiver of
194 the requirement by the decision-making body.

195
196 C. At the pre-application meeting staff will:
197
198 1. Review the proposed project and any preliminary plans with the applicant.
199
200 2. Discuss and inform the applicant about the zoning requirements relevant to the proposal,
201 information necessary for an application, and the approval process(es) for the project. This does
202 not preclude the department from requesting additional information or waiving certain
203 requirements for information later during the review process.
204
205 3. Advise the applicant whether the proposed project conforms to the Comprehensive Plan or the
206 requirements of this title.

207
208 D. Preliminary Design Review Advisory Meetings. Upon request of an applicant, the director may
209 schedule a preliminary design review advisory meeting with applicants and appropriate City staff, for
210 the purpose of reviewing the design and engineering requirements for a proposed development
211 project prior to the formal submission of an application. Applicants are encouraged, though not
212 required, to request a preliminary design review advisory meeting. A preliminary design review
213 advisory meeting is required for Planned Unit Development applications. The substance and process
214 of a preliminary design review advisory meeting shall follow the requirements of pre-application
215 meetings detailed in subsections B and C, above.

216
217 E. Any recommendations or determinations reached during a pre-application or preliminary design
218 review advisory meetings are purely advisory and shall not be binding either on the applicant or the
219 City.

220
221 **Section 3.1.6. Fees Required.**

222
223 Each applicant for a permit, approval, or appeal under this Article shall be required to pay any application
224 fee(s) as established by the City Council.

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228 **Section 3.1.7. Complete Applications Required.**

- 229
- 230 A. Incomplete Applications. No application for a permit, approval, or appeal under this Article shall be
- 231 accepted or reviewed by staff that does include all required application materials and the required
- 232 application fee(s). The burden of providing complete and accurate information required by the
- 233 Community Development Department for each type of application shall be on the applicant.
- 234
- 235 B. Determination of Completeness.
- 236
- 237 1. When an application for development approval is submitted, the director shall make a threshold
- 238 determination as to whether the application is complete and in conformance with the land uses,
- 239 density, and intensity allowed by the future land use designation and zoning district classification.
- 240
- 241 2. All applications shall be reviewed for completeness within ten days of receipt. If the application
- 242 does not meet the requirements of this Article, the director shall notify the applicant or agent in
- 243 writing, stating the additional information required or the modification(s) necessary for
- 244 conformance.
- 245
- 246 3. No further action shall be taken on the application unless and until the additional information is
- 247 submitted and determined to be complete by the director. If the incompleteness has not been
- 248 remedied within sixty (60) calendar days of receipt of notice thereof, the application shall be
- 249 automatically voided and the director shall return the application to the applicant.
- 250
- 251 C. Review. When an application for development approval is determined to be complete, the
- 252 department shall notify the applicant, and commence detailed review and processing of the
- 253 application in accordance with this Code.
- 254

255 **Section 3.1.8. Review for Sufficiency and Code Requirements.**

- 256
- 257 Once an application is determined to be complete, the Department shall commence detailed review of
- 258 the application, consult with other agencies, issue comments to the applicant, consult with the applicant
- 259 as necessary, and determine whether the application and supporting materials are sufficient to proceed
- 260 forward, as applicable for the type of application for review. For purposes of this section, "sufficiency"
- 261 shall constitute an analysis of whether a proposed application:
- 262
- 263 A. Meets the stated objective requirements of the comprehensive plan, this Code, and the City Code of
- 264 Ordinances; and
- 265
- 266 B. Includes the necessary analysis and information in sufficient detail to enable the decision-making
- 267 body or official to make the necessary determinations under the comprehensive plan and this Code.
- 268
- 269 C. The sufficiency and code requirements set forth herein shall be used by the City to evaluate the
- 270 demands created on public services and facilities by a proposed development, as required by this
- 271 code. The following public services and facilities shall be evaluated:
- 272
- 273 1. Drainage facilities;

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- 274
275 2. Environmentally sensitive lands;
276
277 3. Fire protection;
278
279 4. Parks and open space;
280
281 5. Police protection;
282
283 6. Potable water;
284
285 7. Wastewater;
286
287 8. Solid waste;
288
289 9. Stormwater; and
290
291 10. Transportation facilities. A traffic impact study is required for any development anticipated to
292 generate more than 300 p.m. peak hour average daily trips.
293
294 D. If an application is determined to be insufficient, the director shall notify the applicant or agent in
295 writing, stating the additional information required or the modification(s) necessary for conformance.
296
297 E. No further action shall be taken on an application determined to be insufficient unless and until the
298 insufficiency(ies) are resolved, as determined by the director. If the insufficiencies have not been
299 remedied within sixty (60) calendar days, the director may void the application.
300

Section 3.1.9. Decision-making.

- 301
302
303 A. Administrative approvals. Upon determining that an application and all supporting information are
304 sufficient to render a decision, the Director shall take administrative action required by this code and
305 approve the application, approve the application with conditions, or deny the application.
306
307 B. Quasi-judicial and legislative approvals. Upon determining that an application and all supporting
308 information are sufficient to render a decision and any inadequacies have been resolved, the Director
309 shall prepare a report and recommendation to the appropriate decision-making or recommending
310 body.
311

Section 3.1.10. Public Hearing Scheduling and Notice Requirements.

- 312
313
314 A. Scheduling for consideration. When an application is deemed sufficient pursuant to LDC Section 3.1.8,
315 the Director shall schedule a public hearing for an appropriate date. No application shall be scheduled
316 for consideration by the Hearing Examiner, Commission, or City Council until either:
317
318 1. All specified insufficiencies have been resolved; or
319

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- 320 2. The applicant has elected in writing to proceed notwithstanding the unresolved insufficiencies.
321
- 322 B. Required notice of public hearings. Notice of public hearings shall be provided by publication of an
323 advertisement in a newspaper of general circulation, mailed notice to surrounding property owners,
324 and posting of the development site pursuant to the requirements of this section. Table 3.1.2 depicts
325 the public hearing notice requirements for quasi-judicial and legislative applications under this Code:
326
- 327 C. Website posting. Notices of public hearings for development applications shall be posted on the City
328 of Cape Coral website but failure to post a case on the City website shall not constitute a violation of
329 City noticing requirements. In addition, information about public notice and public hearings may be
330 posted by the City on social media outlets.
331
- 332 D. Publication. Publication of advertisements for public hearings concerning comprehensive plan
333 amendments shall meet the requirements of Chapter 163, Florida Statutes. Publications for public
334 hearings concerning zoning amendments shall meet the requirements of Chapter 166 Florida
335 Statutes.
336
- 337 E. Posting. The application site shall be posted with a notice of the public hearing on a sign provided by
338 the Community Development Department at least ten (10) calendar days in advance of any public
339 hearing. The number and placement of public notice signs should be determined by the Department.
340 The signs shall be removed by the City after a final decision. The failure to remove posted notice after
341 a final decision shall not be deemed a failure to comply with this requirement or be grounds to
342 challenge the validity of any final decision on the application(s).
343
- 344 F. Mailed notice. Notice of a public hearing on a proposed development application(s) shall be mailed
345 to all owners of real property within five hundred (500) feet of the periphery of the site in question,
346 whose names and addresses are known by reference to the latest published ad valorem tax records
347 of the Lee County Property Appraiser.
348
- 349 1. Individually owned multi-family units. When real property consists of individually owned multi-
350 family units, notice shall be given to the homeowner's association, if applicable, all individual unit
351 owners, and all real property owners within five hundred (500) feet. If any area adjacent to the
352 development site is owned by the applicant or any partner listed on the application, the five
353 hundred (500) foot notification boundary shall be extended from these parcels. All property
354 owner associations in the notice area shall be notified.
355
- 356 2. Notice to other jurisdictions. If there are unincorporated lands within 500 feet of the property,
357 Lee County shall also be notified.
358
- 359 3. Applicant responsibility for notice. When the notice radius specified in this section includes
360 property outside of the City limits, the applicant is responsible for obtaining the list of property
361 owners to be notified from the Lee or Charlotte County Property Appraisers and providing this list
362 to the department in sufficient time to comply with noticing requirements. The applicant is
363 responsible for any errors or omissions in the list provided.
364
- 365 4. Content. Generally, all public hearing notices shall contain the following information:

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- a. The scheduled date, time, and location of the hearing;
 - b. A general description of the nature of the matter to be addressed, written in layman's terms;
 - c. The address of the property;
 - d. That persons may appear and be heard;
 - e. That written comments filed with the department will be entered into the record;
 - f. That the hearing may be continued from time to time as necessary;
 - g. A telephone number and contact for more information;
 - h. The case number or title of the ordinance under consideration, if applicable; and
 - i. Such additional information as may be required pursuant to this code or applicable law for specific types of development approval.
5. Timing of mailed notice. Notice shall be mailed a minimum ten (10) calendar days prior to the date set for the public hearing by first class mail. A copy of the notice shall be available for public inspection during regular business hours at the Community Development Department. If the application includes a simultaneous future land use map amendment and a rezone, the notice for the rezone may be included in the notice required for the land use amendment.
- G. Electronic Notice. The Community Development Department may, as a courtesy, send electronic notice to any persons or organizations in the City, or to any governmental, public, or quasi-public organization regarding any matter that may affect the interests of that person or organization, or on any matter on which any such person or organization has requested notice. The failure of the Department to send such notice or the failure of any resident or property owner to receive such courtesy notice shall not affect the validity of the public notice requirements.
- H. Exceptions to Mailing and Posting. The mailing and posting notice requirements shall not apply to a land use map amendment initiated by the Council, in response to a judicial order or compliance agreement as described by Section 163.3184(6) and (7), Florida Statutes.
- I. Continued or Rescheduled Meetings. Notice of subsequent hearings shall be mailed and published in accordance with this section for:
- 1. Any hearing for which the Hearing Examiner, Community Development Director, or City Attorney determines new notice should be provided, because of the time elapsed from the original notice, to correct any defect, or apprise affected parties of significant changes to the application as originally noticed;
 - 2. Any hearing continued to an unspecified date, time, and place; or

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- 412
413 3. Any hearing where such new notice is required pursuant to applicable law or this Code.
414

415 **Section 3.1.11 Public Hearing Procedures.**
416

- 417 A. General. All public hearings shall be open to the public. Members of the public shall be permitted to
418 testify at all public hearings. A copy of the hearing procedures shall be made available at the hearing.
419 The applicant may withdraw an application by requesting such withdrawal in writing prior to the
420 commencement of the hearing.
421
- 422 B. Record of hearings. The City Clerk shall attend all hearings, and the City shall record (audio, video, or
423 both) all hearings. The City shall retain the original recording(s) in accordance with the laws of the
424 State of Florida, and, if requested, provide a duplicate of the recording(s).
425
- 426 C. Official file. All written communication received by the decision-making body, the Hearing Examiner,
427 or staff concerning an application, the staff report on the application, any petitions or other
428 submissions from the public, and all other documents pertaining to the application shall be filed in
429 the official file for the application, which shall be maintained by staff. The Comprehensive Plan, the
430 City Code of Ordinances, and the Land Development Code shall be deemed to be part of the official
431 file. The official file shall be available for inspection during normal business hours.
432
- 433 D. Order of public hearings. The hearing shall, to the extent possible, be conducted as follows:
434
- 435 1. The Clerk shall read into the record the ordinance or resolution title and number, or the
436 applicant's name, file number, and the subject matter to be decided if there is no ordinance or
437 resolution.
438
 - 439 2. For quasi-judicial hearings, the applicant, staff, and all participants requesting to speak or present
440 evidence or both at the hearing shall be collectively sworn by an oath or affirmation by the Clerk.
441
 - 442 3. The applicant may waive the applicant's right to an evidentiary hearing if applicant agrees with
443 the staff recommendation and no one from the audience wishes to speak for or against the
444 application. The decision-making body may then vote on the item or the Hearing Examiner shall
445 rule on the matter or make a recommendation, based upon the staff report and any other
446 materials contained within the official file. Regardless of a waiver by the applicant, a public
447 hearing shall be held for all decisions requiring an ordinance or resolution.
448
 - 449 4. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the
450 Hearing Examiner or Mayor determines to proceed in a different order, taking proper
451 consideration of fairness and due process:
 - 452 a. The applicant shall make the applicant's presentation, including offering any documentary
453 evidence, and introduce any witnesses as applicant desires. The applicant shall present the
454 applicant's entire case in 30 minutes.
455
 - 456 b. Staff shall present a brief synopsis of the application; introduce any appropriate additional
457

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458 exhibits from the official file that have not already been transmitted to the Hearing Examiner
459 or City Council with the agenda materials, summarize issues; and make a recommendation on
460 the application. Staff shall also introduce any witnesses that it wishes to provide testimony at
461 the hearing. Staff shall present its entire case in 30 minutes.

462
463 c. Public comment. Participants in opposition to or support of the application shall make their
464 presentation in any order as determined by the Chair, Hearing Examiner, or Mayor. Each
465 participant shall present their argument in five minutes.

466
467 d. For hearings on quasi-judicial matters only, the applicant may cross-examine any witness and
468 respond to any testimony presented.

469
470 e. For hearings on quasi-judicial matters only, staff may cross-examine any witness and respond
471 to any testimony presented.

472
473 f. The Chair, Hearing Examiner, or Mayor may choose to allow participants to respond to any
474 testimony if the Chair, Hearing Examiner, or Mayor deems the response to be necessary to
475 ensure fairness and due process.

476
477 g. Members of the Planning and Zoning Commission, Hearing Examiner, or City Council may ask
478 any questions of the staff, applicant, and participants.

479
480 h. Final argument may be made by the applicant, related solely to the evidence in the record.

481
482 i. Final argument may be made by the staff, related solely to the evidence in the record.

483
484 j. For good cause shown, the Planning and Zoning Commission, Hearing Examiner, or City
485 Council may grant additional time to any of the above time limitations.

486
487 k. The Chair, Hearing Examiner, or Mayor shall keep order, and without requiring an objection,
488 may direct a party conducting the direct examination or the cross-examination to stop a
489 particular line of questioning that, in the sole judgment of the Chair, Hearing Examiner, or
490 Mayor merely harasses, intimidates, or embarrasses the individual testifying or being cross-
491 examined; is unduly repetitious or is not relevant; or is beyond the scope of the application
492 or, in the case of cross-examination, is beyond the scope of the testimony by the individual
493 being cross-examined. If the party conducting the direct examination or cross-examination
494 continues to violate directions from the Chair, Hearing Examiner, or Mayor to end a line of
495 questioning deemed improper as set forth herein, the Chair, Hearing Examiner, or Mayor may
496 terminate the direct examination or the cross-examination.

497
498 l. The Planning and Zoning Commission, Hearing Examiner, or City Council may, on its own
499 motion or at the request of any person, continue the hearing to a fixed date, time, and place.
500 The applicant shall have the right to one continuance; however, all subsequent continuances
501 shall be granted at the sole discretion of the Commission, Hearing Examiner, or City Council.

502
503 E. Decisions. For all quasi-judicial hearings in which a decision is made regarding an application for any

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504 development permit, the decision to approve or deny shall be based on whether the application
505 meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the
506 Land Development Code, based on the entirety of the record before the Hearing Examiner or City
507 Council. The Hearing Examiner or Council decisions must be based upon competent substantial
508 evidence in the record.

509

510 F. Rules of Evidence for quasi-judicial hearings.

511

512 1. The decision-making body or the Hearing Examiner shall not be bound by the strict rules of
513 evidence, and shall not be limited only to consideration of evidence which would be admissible in
514 a court of law. The decision-making body or the Hearing Examiner shall have the ability, but not
515 the duty, to conduct site visits in their sole discretion and to consider any evidence so adduced in
516 their deliberations.

517

518 2. The Chair or Hearing Examiner may exclude evidence or testimony that is not relevant, material,
519 or competent or testimony which is unduly repetitious or defamatory.

520

521 3. The Chair, with the advice of the City Attorney, will determine the relevancy of evidence. In
522 matters decided by the Hearing Examiner, the Hearing Examiner, without the advice of the City
523 Attorney, will determine the relevancy of evidence.

524

525 4. Matters relating to an application's consistency with the Comprehensive Plan, the City Code of
526 Ordinances, or the Land Development Code will be presumed to be relevant and material.

527

528 5. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence,
529 but it shall not be sufficient by itself to support a finding unless it would be admissible over
530 objection in court.

531

532 6. Documentary evidence may be presented in the form of a copy of the original, if available. A copy
533 shall be made available to the decision-making body or the Hearing Examiner and to the staff no
534 later than two business days prior to the hearing on the application. Upon request, the applicant
535 and staff shall be given an opportunity to compare the copy with the original. Oversized exhibits
536 shall be copied and reduced for convenient record storage.

537

538 7. Only the applicant, an authorized representative of the applicant, staff, and the decision-making
539 body or the Hearing Examiner shall be entitled to conduct cross-examination when testimony is
540 given or documents are made part of the record.

541

542 8. The City Attorney shall represent the decision-making body and advise it as to procedures to be
543 followed.

544

545 9. The Planning and Zoning Commission, Hearing Examiner, or City Council shall take judicial notice
546 of all state and local laws, ordinances, and regulations and may take judicial notice of such other
547 matters as are generally recognized by the courts of the State of Florida.

548

549 10. Supplementing the record after the quasi-judicial hearing is prohibited, unless specifically

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- 550 authorized by an affirmative vote of the decision-making body, or authorized by the Hearing
551 Examiner, under the following conditions:
552
- 553 a. The supplementation occurs after a quasi-judicial hearing is continued but prior to final action
554 being taken on the application or appeal.
555
 - 556 b. If a question is raised by the Planning and Zoning Commission, Hearing Examiner, or City
557 Council at the hearing which cannot be answered at the hearing, the party to whom the
558 question is directed will submit the requested information in writing to the City Clerk and the
559 decision-making body or Hearing Examiner after the quasi-judicial hearing, with copies to the
560 other parties, provided the hearing has been continued or another hearing has been
561 scheduled for a future date and no final action has been taken by the decision-making body
562 or Hearing Examiner. The information requested will be presented to the decision-making
563 body or the Hearing Examiner at least two business days prior to the time of the continued
564 hearing.
565
 - 566 c. All parties and participants shall have the same right with respect to the additional
567 information as they had for evidence presented at the hearing.
568
- 569 G. Final decision. The City Council or the Hearing Examiner shall reach a written decision without
570 unreasonable or unnecessary delay. The Hearing Examiner shall provide a copy of the decision to the
571 City Clerk for transmission to the applicant, if the applicant is not the City, to the Director of the
572 Department of Community Development, and the City Attorney.
573
- 574 H. The Record. All evidence admitted into the record at the hearing, the official file, and the adopted
575 development order, ordinance, or resolution of the City Council or the written decision of the Hearing
576 Examiner shall be maintained by the City Clerk or the Department of Community Development.
577
- 578 I. Adjournment. The Chairperson, upon a vote of the majority present, or Hearing Examiner, as
579 applicable, may adjourn a hearing to a date certain without the necessity of additional notice.
580 Adjournment to an uncertain date shall require notice as required for the original hearing and by the
581 Land Development Code.
582
- 583 J. Deferrals. If a hearing is concluded, but action is deferred until a future date, formal notice shall not
584 be required prior to action being taken.
585
- 586 K. Joint hearings. Where deemed necessary, joint hearings may be conducted after proper public notice.
587 In such instances, public notice need only be given by one public body, which shall be the City Council
588 in instances where it is one of the hearing bodies.
589
- 590 L. Regularly scheduled public hearing dates. The Hearing Examiner or the City Council may establish
591 regular dates for public hearings on zoning amendments. Such dates, if established by the Hearing
592 Examiner, or the City Council, shall not prevent the Hearing Examiner or City Council from scheduling
593 additional public hearings whenever such public hearings are deemed necessary.
594
- 595 M. Reading of ordinances. Except for ordinances initiated by the City Council which rezone a parcel or

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596 parcels of land involving ten or more contiguous acres, or change permitted, special exception, or
597 prohibited use categories in zoning districts, all ordinances shall be read, either by title or in full, on
598 two separate days at a duly noticed public hearing of the City Council.
599

600 N. The printed agenda for the meeting at which the quasi-judicial hearing is scheduled to take place shall
601 identify the hearing as quasi-judicial and indicate where copies of the procedures that apply may be
602 obtained.
603

Section 3.1.12. Decisions under this Article.

606 A. When this Article authorizes the Community Development Director, Hearing Examiner, or City Council
607 to make decisions under this Chapter, that decision shall be made pursuant to the specific criteria
608 applicable to the application in Chapter 2 (Specific Review Procedures). If Chapter 2 does not include
609 specific criteria for that type of decision, the Community Development Director or Department,
610 Hearing Examiner, Commission, or Council shall make the decision based on whether the application
611 complies with this Article and any regulations authorized by this Code, and will protect the public
612 health, safety, and welfare.
613

614 B. Unless otherwise indicated in a specific provision of this Article, the Community Development
615 Director, Hearing Examiner, or City Council may approve the application, deny the application, or
616 approve the application subject to conditions as stated in Section 3.1.13, below.
617

618 C. Unless otherwise stated in this Article, or unless a different condition is attached to a permit or
619 approval, permits and approvals granted under this Article are not affected by changes in ownership
620 or tenancy of the property.
621

Section 3.1.13. Conditions on Approvals.

624 A. The Community Development Director, Hearing Examiner, or City Council may attach conditions to
625 any quasi-judicial permit or approval under this Chapter, provided the condition is required to bring
626 the development proposed in the application into compliance with the requirements of the
627 Comprehensive Plan or the LDC.
628

629 B. The Community Development Director, Hearing Examiner, or City Council may also attach conditions
630 to any quasi-judicial development permit or approval under this Code, provided the condition is
631 necessary to minimize or ameliorate potential adverse impacts of the development proposal. Such
632 conditions shall be reasonably related to the actual or potential impact(s) of the specific use, activity,
633 or structure in question.
634

Section 3.1.14. Appeals.

637 A. Review by the Director. Applicants for administrative permits and approvals may request a formal
638 review by the Community Development Director of staff decisions, within thirty (30) calendar days of
639 the date the administrative decision was made. The request for review shall be accompanied by any
640 relevant documents related to the review as determined by the Planning Manager or Development
641 Services Manager. The respective manager shall review the relevant standards and present a written

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642 finding to the Community Development Director. The request for review shall be considered by the
643 Community Development Director within 10 days of submittal of a complete request. The Community
644 Development Director may consult with the City Attorney’s office on the matter.
645

646 The Community Development Director shall provide a written determination to affirm the staff
647 decision, grant the relief requested in the review, with or without conditions, or respond to the
648 applicant or respective manager for further information, documentation, or proceedings. The written
649 determination by the Director shall be the final administrative decision.
650

- 651 B. Appeals of Community Development Director decisions. An applicant desiring to appeal a decision of
652 the Community Development Director, shall, within ten (10) calendar days from the date of such
653 decision, file a written Notice of Appeal with the Department of Community Development. The appeal
654 shall then be heard by the Hearing Examiner at a regularly scheduled meeting, provided there is
655 sufficient time to review the appeal and provide the required public notice. A staff or Director’s
656 recommendation is not a decision and is not appealable.
657
- 658 C. Appeals from decisions of the Hearing Examiner. Any aggrieved party by a decision of the Hearing
659 Examiner on a quasi-judicial matter or a Hearing Examiner decision on an administrative appeal may
660 file an appeal to the City Council within 30 days by filing a written Notice of Appeal with the City Clerk.
661 All such appeals shall be based on the record.
662
- 663 D. Appeals from decisions of the City Council. An action to review any decision of the City Council under
664 these regulations may be taken by any person or persons aggrieved by such decision by presenting to
665 the Circuit Court a petition for issuance of a Writ of Certiorari, duly certified, setting forth that such
666 decision is illegal, in whole or in part, certifying the grounds of the illegality, provided same is done in
667 the manner and within the time provided by Florida Rules of Appellate Procedure.
668
- 669 E. Stay of proceedings. An appeal shall stay all proceedings in the matter appealed from until the final
670 disposition of the appeal by the City Council or Hearing Examiner. The pendency of an appeal shall toll
671 all time periods applicable to the decision which is subject to appeal until final disposition of the
672 appeal by the City Council or Hearing Examiner with regard to the appeal.
673
- 674 F. Record. The record to be considered in the appeal shall include any application, exhibits, appeal
675 papers, written objections, waivers, or consents considered by staff, the Hearing Examiner, or City
676 Council, as well as transcripts and recordings taken at a public hearing, the Hearing Examiner or City
677 Council minutes, and resolutions or ordinances showing the decision or action being appealed. The
678 record shall also include the record made as a result of any prior applications for development
679 approval on the same property. The City Clerk shall identify all exhibits used at the hearing. All exhibits
680 so identified or introduced shall be a part of the City record.
681

CHAPTER 2. GENERAL REVIEW PROCEDURES

Section 3.2.1. All Permits and Approvals.

- 686 A. General Requirements for all permit applications.
687

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- 688 1. Applications for permits or approvals shall be submitted with forms supplied by the Department
689 and any required supporting documentation, plans, or materials required by this Code or specified
690 in the application form(s).
691
692 2. Applications shall include any required fee(s) as established by the City Council.
693
694 3. Incomplete applications will not be accepted.
695
696 4. Before any use of land, building, or structure is established or any established use of land, building,
697 or structure is changed to a different use than that identified in the previously-issued certificate of
698 use under the prior LUDR, a certificate of zoning compliance under this code, or a business tax receipt
699 for the property, the person seeking to establish the use must obtain a certificate of zoning
700 compliance. Failure to secure a certificate of zoning compliance before establishing a use of land,
701 building, or structure or before changing the use of the property from the use recognized in a duly-
702 issued certificate of use under the prior LUDR or a certificate of zoning compliance under this Code
703 to another use, shall be a violation of this Code, and punishable as such.
704
705 B. Withdrawal of applications. An applicant may withdraw an application at any time by submitting a
706 letter of request to DCD or providing testimony of the requested withdrawal in a public hearing.
707
708 C. Effective date. All permits shall take effect on the day the permit is issued or an approval granted.
709
710 D. Reliance on permits during pendency of appeals. Any action(s) taken by a permittee during the
711 pendency of an administrative or quasi-judicial appeal shall be at the sole risk of the permittee.
712

CHAPTER 3. SPECIFIC REVIEW PROCEDURES - ADMINISTRATIVE PERMITS AND APPROVALS

Section 3.3.1. Zoning Verification Letter or Flood Verification Letter.

- 716
717 A. Purpose and Intent.
718
719 1. Zoning Verification Letter. To provide an official determination of the zoning of specific property
720
721 2. Flood Zone Verification Letter. To provide an official determination of the FEMA Flood zone, as
722 shown on the Flood Insurance Rate Map (FIRM) for specific property.
723
724 B. Review Criteria.
725
726 1. The Department will review the applicable City records, maps, and any supporting information
727 and issue a Zoning or Flood Zone verification letter.
728
729 2. Verification letters are valid for the date upon which they are issued and may be subject to
730 change.
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Section 3.3.2. Certificate of Zoning Compliance.

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A. Purpose and Intent.

1. To determine whether a proposed activity or use is permitted in the zoning district of the property in question, prior to application for a building or site development permit.
2. To determine whether all structures and site development requirements (e.g., building setbacks, parking requirements, etc.) are in compliance with the requirements of this Code prior to application for or review of a building or site development permit.
3. Miscellaneous certificates of zoning compliance. The Community Development Director is authorized to approve, approve with conditions, or deny a certificate of zoning compliance for the following buildings, structures, improvements and installations:
 - a. Above ground pools that contain water over 24 inches deep;
 - b. Agricultural or farm buildings and non-habitable structures on A, Agriculture zoned sites;
 - c. Canopy carports, canopies, and other fabric covered framework on residential properties;
 - d. Chickee huts constructed by Miccosukee or Seminole Indians;
 - e. Chain-link fences, picket fences, ornamental iron fences, and other fences installed on residential property that are deemed non-wind resistant; provided, however, any pool safety barrier fence and any fence with concrete columns shall require a building permit;
 - f. Decorative reflective pools and fishponds that contain water less than 24 inches deep, that contain less than 250 square feet in area, and contain less than 2,250 gallons in volume;
 - g. Decorative garden-type water fountains and other similar hardscape features;
 - h. Portable mini-storage unit, subject to the conditions and limitations of contained in Article 5;
 - i. Donation bins, recycling bins, mobile medical and professional units in accordance with Article 5; and
 - j. Anchoring, mooring, docking, or storage of a houseboat.

C. Review Criteria.

1. To determine whether the proposed use is a permitted use, a conditional use, or a special exception under this code.
2. Submittals will be reviewed for compliance with applicable code requirements (e.g., parking, setbacks, conditional use criteria, conditions of approval, etc.)

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- D. Specific Requirements for Certificates of Zoning Compliance.
 - 1. Posting required. The original certificate of zoning compliance shall be posted in a conspicuous location accessible to the public on the business premises at all times.
 - 2. Revocation. The Community Development Director shall notify the holder of any certificate of zoning compliance, in writing, of the City’s intent to revoke a certificate of zoning compliance for any of the following reasons:
 - a. The City has reasonable grounds to believe that the premises are being used in a manner that is inconsistent with, or contrary to, the provisions of the City Code or any other applicable code or statute.
 - b. In the event of a conviction of any owner, operator, manager, supervisor, or any employee acting at the direction or with the knowledge of the owner, operator, manager, or supervisor, by a court of competent jurisdiction, for the violation of any criminal statute committed in conjunction with the business operation.
 - c. It has been ascertained that the holder of the certificate of zoning compliance falsified information on the application for the certificate of zoning compliance.
 - d. The holder of the certificate of zoning compliance, or the designated manager, operator, or supervisor, refuses to permit an authorized law enforcement officer or code enforcement officer to inspect the premises during normal business hours for the purpose of investigating a complaint which has been filed against the business operation.
- E. Notice of revocation. When a notice of revocation is issued it shall state the following:

THE HOLDER OF THE CERTIFICATE OF ZONING COMPLIANCE SHALL HAVE TEN (10) DAYS FROM THE DATE OF THIS NOTIFICATION TO EITHER BRING THE PREMISES INTO COMPLIANCE OR TO REQUEST A HEARING, IN WRITING, BEFORE THE SPECIAL MAGISTRATE.

IF THE VIOLATION IS NOT CURED OR IF NO WRITTEN REQUEST FOR A HEARING IS RECEIVED BY THE CITY OF CAPE CORAL WITHIN TEN (10) DAYS OF THE DATE OF THIS NOTIFICATION BY THE CERTIFICATE HOLDER, THE CERTIFICATE OF ZONING COMPLIANCE SHALL BE CONSIDERED REVOKED.
- F. Stay pending hearing. If the holder of the certificate of zoning compliance requests a hearing before the City Council, the certificate of zoning compliance shall remain in effect during the pendency of the action before the City Council.

Section 3.3.3. Administrative Interpretations and Similar Use Determinations.

- A. Purpose and Intent.
 - 1. To determine whether a proposed use, activity, or site design complies with comprehensive plan.

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- 826
- 827 2. To interpret specific comprehensive plan policies.
- 828
- 829 3. To interpret whether a proposed use, activity, or site “design” complies with the LDC.
- 830
- 831 4. To determine how specific code requirements may apply to a site or a development proposal
- 832 when application of such requirements is not explicitly set forth in the LDC.
- 833
- 834 5. To interpret the application of conditions of approval.
- 835
- 836 6. To determine whether a proposed use that is not otherwise classified as a permitted, permitted
- 837 with special regulations, conditional, or special exception use in a zoning district or is not
- 838 currently defined in this code may classified as a similar use.
- 839
- 840 B. Review Criteria.
- 841
- 842 1. To determine whether a proposed use activity or site design complies with specific provisions of
- 843 the comprehensive plan and is in keeping with the spirit and intent of the comprehensive plan.
- 844
- 845 2. Consistency with LDC.
- 846
- 847 3. Whether the proposed use or activity complies with DCD policies and procedures.
- 848
- 849 C. Similar Use Determinations.
- 850
- 851 1. Interpretation of Similar Uses. Notwithstanding the requirements of Section 4.4.D., the Director
- 852 may determine that a specific proposed use may be allowed as a permitted, permitted with
- 853 specific regulations, conditional, or special exception use in a specific zoning district(s).
- 854
- 855 2. Similar Use Determination Process.
- 856
- 857 a. A similar use determination may be issued if all of the following findings can be made:
- 858
- 859 i. The characteristics and activities associated with the proposed use are similar to those
- 860 of one or more of the allowed uses listed in the zoning district and will not involve a
- 861 greater level of activity, population density, intensity, traffic generation, parking, dust,
- 862 odor, noise, or similar impacts than the uses listed in the zoning district;
- 863 ii. The proposed use will meet the purpose and intent of the zoning district that applies to
- 864 the location of the use;
- 865 iii. The proposed use is consistent with the goals, objectives, and policies of the
- 866 Comprehensive Plan; and
- 867 iv. The proposed use is not listed a permitted, permitted with specific regulations,
- 868 conditional, or special exception use in another zoning district.
- 869

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- 870 b. If a similar use determination is approved, the Director shall establish whether the use shall
871 be a permitted use, permitted with specific regulations, a conditional use, or special
872 exception use.
873
874 c. Upon approval of a similar use determination, the department shall prepare a text
875 amendment to this ordinance to include the use in the appropriate district, along with any
876 appropriate use regulations.
877

Section 3.3.4. Lots Splits and Lot Combines.

- 878
879
880 A. Purpose and Intent.
881
882 1. To provide standards for the split and combination of lots and tax parcels along existing platted
883 lot or parcel lines.
884
885 2. To provide standards for the split and combination of lots or tax parcels that do not require a
886 replat.
887
888 3. To provide for a one time split of property when the lot split or combine does not require approval
889 as a new subdivision plat or replat.
890
891 4. This section shall not apply to unrecorded subdivisions.
892
893 B. General Requirements
894
895 1. All divisions of land in the City shall occur only as a new subdivision plat, a replat, or a lot split.
896 The requirements for subdivisions and replats are set forth in Article 10 of this Code. A lot split
897 that does not meet the requirements of this chapter is deemed a subdivision or a replat and shall
898 be defined and processed as set forth in Article 10.
899
900 2. No lot split shall be recognized by the City, no lot that is part of a lot split shall be sold, and no
901 building permit shall be issued unless the lot split has been approved by the City prior to recording
902 in accordance with the requirements of this Article.
903
904 C. Review Criteria and Standards
905
906 1. Whether the lot split or combine creates nonconforming lots and structures.
907
908 2. The lot split or combine shall not cause marine improvements to become nonconforming for
909 setbacks or any other standards regarding such structures.
910
911 3. Ensure that the lot split or combine does not create split zoning on a parcel.
912
913 4. The newly configured lots parcels must have at least twenty-five feet (25') of frontage on an
914 existing right-of-way, private road, canal, lake, basin, or river. The minimum lot width of the
915 zoning district must be met when measured at the front or rear setback, where applicable.

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- 916
- 917 5. The newly created parcels shall not result in private utility lines crossing property lines.
- 918
- 919 6. A survey sketch prepared by a professional surveyor and mapper (PSM) indicating the legal
- 920 description of the parent parcel, boundaries, dimensions, easements, restrictions or agreements
- 921 affecting the property, rights-of-way, utilities, location of existing buildings, and other pertinent
- 922 information including wetland boundaries and location of specimen and historic trees. The survey
- 923 shall be required to be signed, sealed, dated, and certified to the City.
- 924
- 925 7. Approval and recording. The Community Development Department shall review the proposed lot
- 926 split for compliance with the criteria listed in this subsection and Article 10, Subdivisions. Once
- 927 approved the applicant may proceed with the lot split and record the lot split with the Lee County
- 928 Property Appraiser. Approval shall expire within one (1) year of issuance if not recorded.
- 929

930 **Section 3.3.5. Conditional Uses.**

- 931
- 932 A. Purpose and Intent.
- 933
- 934 1. To provide standards and criteria for review and approval of specified conditional uses for a
- 935 specific site.
- 936
- 937 2. To provide reasonable limitations or special conditions for conditional uses, in order to address,
- 938 minimize, or ameliorate potential impacts of the use on surrounding property and for the
- 939 protection of the public health, safety, and welfare.
- 940
- 941 B. General Requirements. Proposed conditional uses must meet the following requirements:
- 942
- 943 1. The conditional use standards identified in Article 5 for the specific zoning district use and
- 944 conditional use in question.
- 945
- 946 2. The proposed conditional use will not result in development that is inconsistent with the intended
- 947 character of the applicable zoning district.
- 948
- 949 3. A listed conditional use that does not meet the applicable conditional use standards may apply
- 950 for approval as a Special Exception.
- 951
- 952 C. Review Criteria. A Conditional Use may be approved by the Director based on criteria identified in
- 953 Article 5. These criteria are specific to each conditional use.
- 954

955 **Section 3.3.6. Administrative Deviations.**

- 956
- 957 A. Purpose and Intent. To grant relief from strict application of LDC requirements to allow minor
- 958 deviations.
- 959
- 960 B. Scope. Administrative Deviations may be granted for the following:
- 961

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- 962 1. Setback requirements where the setback is not decreased by more than 10% in the applicable
963 zoning district and the encroachment does not extend into an easement, right-of-way, or is an
964 encroachment over the property line for a zero-lot line site.
965
966 2. Reduction in the overall required parking by 5%.
967
968 3. Landscaping or buffers. Up to a 10 % reduction in the width of required buffers or the required
969 number of trees and shrubs.
970
971 4. Preservation of Vegetation. A deviation from the following regulations to accommodate the
972 preservation of existing native specimen tree(s):
973
974 a. Up to five (5) percent of a required setback; or
975
976 b. Up to five (5) percent of the required parking spaces.
977
978 5. Minor sign deviations as set forth in Article 6 of this code.
979
980 C. Review Criteria. An Administrative Deviation may be approved based on the following criteria:
981
982 1. The proposed deviation will not result in development that is inconsistent with the intended
983 character of the applicable zoning district.
984
985 2. The normally required code standard(s) is determined to significantly inhibit development of the
986 site.
987
988 3. The deviation will not impede the ability of the project or site to adequately provide for service
989 areas and other development features for the project.
990
991 4. Access for service and emergency vehicles will not be impeded.
992
993 5. The proposed deviations will result in a building and site design of equal or superior quality.
994
995 D. Effective date of approval. A deviation shall take effect upon approval.
996
997 E. If an Administrative Deviation is not approved, the applicant may subsequently apply for a Variance.
998

Section 3.3.7. Site Development and Subdivision Construction Plans.

- 1000
1001 A. Applicability. The procedures contained in this Section are applicable to all projects involving land
1002 development, including Site Development Plans (SDP) for individual sites, Subdivision Construction
1003 Plans (SCP), and sites without structures such as parking lots. Also included are projects which involve
1004 the construction of any facility, the expansion of a site through acquisition or lease, alteration or
1005 conversion of an existing site or structures, or the change of use of a site or structure where the site or
1006 structure does not meet the current standards or criteria of these regulations. The provisions of this
1007 Section, where appropriate, are to be applied to on-site and off-site development activity. No land

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1008 development activity shall commence without obtaining the appropriate approvals and permits
1009 required by this code.

1010
1011 B. Exceptions. The requirements of this section do not apply to:

1012
1013 1. Single-family dwellings; or

1014
1015 2. Duplex dwellings on existing platted lots or parcels.

1016
1017 C. Plan Preparation. A professional engineer registered in the state of Florida shall design all required
1018 improvements such as streets, drainage systems, water and sewage facilities, etc. All plans, drawings,
1019 reports, and calculations shall be prepared, signed, and sealed by the appropriate licensed
1020 professional, such as engineers, architects, landscape architects, professional surveyors and mappers,
1021 or attorneys, registered in the state of Florida. Other specialized consultants, such as environmental
1022 consultants, structural engineers, archaeologists, etc., may be required to assist in the preparation of
1023 the plans, drawings, reports, or other documents required for application submittals.

1024
1025 D. Review Process. The application review and approval process follows the administrative review
1026 procedure as established in Sections 3.1.4 through 3.1.8 of this Article.

1027
1028 E. Criteria. The Development Services Manager may approve, approve with conditions, or deny the
1029 application, after consideration and review of the following:

1030
1031 1. The development, as proposed, conforms to the comprehensive plan and is consistent with the
1032 recommendations of any applicable PUD Master Concept Plan, Preliminary Subdivision Plan, or
1033 master plans which have been approved or accepted by the City Council;

1034
1035 2. The proposed development plans, landscape plans, engineering plans, lighting plans, and other
1036 required plans conform or will conform with all applicable City codes, the Engineering Design
1037 Standards, and design standards as set forth in this code;

1038
1039 3. The development will efficiently use or not unduly burden drainage, water, sewer, solid waste
1040 disposal, education, recreation, or other necessary public facilities which have been constructed
1041 or planned and budgeted for construction in the area;

1042
1043 4. The development provides sufficient on-site storm water management improvements to meet
1044 state water quality and flood protection standards;

1045
1046 5. The development will efficiently use or not unduly burden or affect public transportation facilities,
1047 including mass transit, public streets, roads, and highways which have been planned and
1048 budgeted for construction in the area, and if the development is or will be accessible by private
1049 or public roads, streets, or highways; and

1050
1051 6. The development provides necessary and adequate vehicular circulation, pedestrian access,
1052 ingress and egress, and is configured in a manner to minimize hazards and impacts on adjacent
1053 properties and adjacent rights-of-way.

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7. Projects subject to SDP review comprised of 2 or more parcels with unique strap numbers must be combined into a single parcel with one strap number prior to issuance of the Site Development Permit.
 8. Projects subject to SDP review required to provide easements shall provide executed copies of staff approved easements to the City prior to issuance of the Site Development Permit. The City may require such easements be accepted by City Council and recorded in the public records prior to issuance of the Site Development Permit.
 9. Projects that involve a vacation of plat or release of easement may have review or approval withheld until such vacation or release of easement has been approved or recorded, as determined by the Director.
 10. The City may attach any reasonable conditions, safeguards, limitations, or requirements to the approval of a plan which are found necessary and consistent with the review to effectuate the purpose of this section and to carry out the purpose of this Code and the Comprehensive Plan.
- F. Plats. If the development is a subdivision, a plat meeting the requirements of F.S. Ch. 177, Part 1 and the City of Cape Coral Technical Requirements for Plat Approval, which are hereby incorporated by reference, must be submitted prior to approval of Subdivision Construction Plans. The preliminary plat submittal is not required until after the first round of SCP sufficiency comments, though it may be submitted earlier. Refer to Article 10 Subdivisions.
- G. Plan Approval. Upon successfully addressing departmental comments, the Development Services Manger shall approve the application provided all departmental reviewers have accepted the plans or accepted the plans with conditions. Upon receiving plan approval and meeting any applicable conditions, the issuance of a permit shall be authorization for the applicant to begin those construction activities specifically covered by the plan approval. Construction activities shall not occur before all applicable state and federal permits have also been obtained.
- H. Effect of Plan Approval. Site Development Plans and Subdivision Construction Plans are valid for two years from the date of approval. If a development permit to construct the improvements has not been obtained prior to the expiration date, the approval expires and becomes null and void. An applicant may apply for a one-year extension for good cause. Such an extension may be granted for any plan approved after the effective date of this ordinance and two years prior to adoption. The extension request must be filed prior to the expiration date of plan approval. If the project is within a PDP, a PUD, or a phased development, the expiration of plan approvals may differ, as established in the original approval. See Phased Projects Section 3.3.7.T for addition information regarding expiration of permits and plan approvals in phased projects.
- I. Engineer’s Opinions of Probable Construction Costs. The City shall review and approve all cost opinions prior to acceptance of same.
1. Inspection fees applied to development permits are based on a percentage of the estimated construction cost, of Developer installed improvement, to be turned over to the City for ownership

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- 1100 and maintenance.
- 1101
- 1102 2. Opinions of Probable Construction Costs shall be prepared, signed, and sealed by the professional
- 1103 engineer of record.
- 1104
- 1105 3. Cost opinions shall be a unit quantity itemized estimate of the required improvements including:
- 1106 mobilization, material and other testing, survey stake out, and a 10% contingency. Lump sums are
- 1107 only to be used for items typically not contracted as unit price items.
- 1108
- 1109 4. Subdivisions. Cost opinions for subdivision improvements are to be provided as required in Article
- 1110 10 of this code. The cost of improvements required to support a subdivision that will be turned
- 1111 over to the City for ownership and maintenance will be utilized in determining inspection fees for
- 1112 the subdivision infrastructure permit. Cost opinions for assuring the completion of subdivision
- 1113 improvements shall include, in addition to the items listed above, the cost of providing electrical
- 1114 service for lift stations, pump stations, or other components that may require electric service to
- 1115 function and setting PCP's. upon completion of construction.
- 1116
- 1117 J. Amendments. Plan amendments include changes to projects which impact multiple aspects of the
- 1118 development, may affect multiple plans, and will require multiple departmental reviews to evaluate
- 1119 the proposed amendment to the plan(s).
- 1120
- 1121 1. The amendment process may not be used to substantively modify the scheme of development as
- 1122 originally approved under an approved SDP or SCP.
- 1123
- 1124 2. Proposed amendments that impact a PDP or PUD approval criteria or conditions must receive
- 1125 approval of an amendment to the PDP or PUD prior to receiving SDP or SCP approval.
- 1126
- 1127 3. Amendments may apply to projects that are currently under review, projects under construction
- 1128 or phased projects that have yet to be completed.
- 1129
- 1130 4. The applicant shall submit a letter of intent, the applicable fee, the amended plan(s) and any other
- 1131 documentation required to review the proposed amendment.
- 1132
- 1133 5. The Development Services Manger shall determine if the proposed changes to the plan can be
- 1134 processed as an amendment, qualify for a lesser review process or requires a greater review
- 1135 process.
- 1136
- 1137 K. Revisions. Revisions to an approved plan while under construction which do not increase the gross
- 1138 square footage of a building or adversely impact compliance with the approved plan, and would not
- 1139 alter the required infrastructure and improvements necessary to serve the project, may be approved
- 1140 in writing by the Development Services Manager provided such revisions fully conform to all existing
- 1141 City regulations. The Development Services Manager will determine if the revision requires an
- 1142 approved plan revision or if the revision can be shown on the Record Drawings.
- 1143
- 1144 L. Limited Review. A Limited SDP Review for a new improvement or alteration of existing improvements
- 1145 to an approved project may be requested. Limited Reviews are for proposed improvements which do

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1146 not substantially affect projects minimum technical requirements of this Code or do not require a
1147 review by three or more of the following review disciplines: zoning, planning transportation, drainage,
1148 fire, utilities and landscaping. Changes that exceed the criteria for the scope of a Limited SDP review
1149 as specified in this subsection or, as determined by the Development Services Manager, may be
1150 processed as an amendment or a full SDP review in accordance with this section. Applications
1151 reviewed under this process will be reviewed for compliance with the following general criteria:

- 1152
- 1153 1. The development must have no significant adverse effect upon surrounding land uses;
 - 1154
 - 1155 2. The development must have no significant adverse effect upon public facilities in the area;
 - 1156
 - 1157 3. The development must not adversely affect the environmental quality of the area; and
 - 1158
 - 1159 4. The development proposal must be consistent with the City Comprehensive Plan.
- 1160
- 1161 M. Site Improvement Permit. A permit review of minor changes to an existing development which does
1162 not require a separate Site Development Plan review. This permit may be utilized when the existing
1163 project is in full compliance with an approved plan or the site proposed for a minor change meets the
1164 following criteria: Any changes to an approved Site Plan project or SDP will not increase density,
1165 parking requirements, water or sewer usage, or enlarge a structure for human occupancy or assembly
1166 by more than 5% of the existing approved plan. For sites lawfully developed without Site Plan review,
1167 the 5% exception may be applied if the applicant submits all of the information required under SDP
1168 review. Determination of the 5% shall be cumulative based on the originally approved development.
- 1169
 - 1170 1. All infrastructure exists on the site to service the site;
 - 1171
 - 1172 2. Engineering is not required for the proposed change;
 - 1173
 - 1174 3. Parking meets all parking code requirements;
 - 1175
 - 1176 4. The improvement does not significantly alter the traffic circulation system or significantly change
1177 the use of property;
 - 1178
 - 1179 5. The existing project is in compliance with an approved landscape plan or the code in effect at the
1180 time of the original construction; and
 - 1181
 - 1182 6. The existing project meets all storm water management requirements.
- 1183

1184 **Section 3.3.8 Site Development Permits.**

- 1185
- 1186 A. The Development Services Manager shall be authorized to approve, approve with conditions, or deny
1187 a site development permit for the following improvements and installations:
- 1188
 - 1189 1. Site Development;
 - 1190
 - 1191 2. Subdivision Infrastructure;

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- 1192
1193 3. Site Improvements;
1194
1195 4. Landscaping;
1196
1197 5. Full Demolition;
1198
1199 6. Parking lot seal coating or re-stripping of existing parking lots;
1200
1201 7. Underground Fire Lines;
1202
1203 8. Utility Service Relocations;
1204
1205 9. Land Clearing and Fill;
1206
1207 10. Relocation of Residential Storm Drains;
1208
1209 11. Backflow Prevention; and
1210
1211 12. Spot Dredging.
1212
1213 B. Review. The Development Services Manger shall act upon applications for site development permits
1214 within 10 calendar days from the date of their submission.
1215
1216 C. Issuance of Permits.
1217
1218 1. All permits will be issued in compliance with the approved plans, if applicable, and may contain relevant
1219 conditions of the associated plan approval.
1220
1221 2. If the proposed construction or alteration conforms with all applicable provisions of this Code and
1222 all other applicable law, the Development Services Manager shall issue a development permit
1223 authorizing such construction or alteration.
1224
1225 3. If the proposed construction or alteration fails to conform, he shall refuse to issue the permit and
1226 shall deliver written notice to the applicant stating the reason for the refusal.
1227
1228 D. Effect of Approval, Expiration, and Extensions. A site development permit shall expire six months from
1229 the date of issuance unless the permitted improvements are under construction and have passed a
1230 required inspection within the 90 days prior to the expiration of the permit. Erosion control
1231 inspections will not extend the expiration date. A permit may be extended for an additional 90 days.
1232 Failure to either pass a required inspection or request a permit extension within the 90-day period
1233 provided will result in expiration of the permit. Thereafter, a new permit will be required to
1234 continue construction.
1235
1236 E. Commencement of Construction. After approval of the plans, the applicant may construct the required
1237 improvements, subject to obtaining all required permits. The Development Services Manager shall be

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1238 notified in advance of the date of commencement of such construction and the applicant shall
1239 schedule a preconstruction meeting where representatives of the developer, the City, contractors,
1240 and franchise utilities shall discuss the construction of the planned improvements. No work shall take
1241 place prior to the preconstruction meeting.
1242

1243 F. Inspections and Certification of Compliance. The developer shall retain the engineer of record or another
1244 professional engineer registered in the state of Florida and other professionals, if needed, to inspect
1245 the construction progress and certify the construction of all required improvements such as streets,
1246 parking areas, drainage structures, drainage systems, water and sewer facilities, landscaping and
1247 buffers, and all other improvements, for substantial compliance with the approved plans.
1248

1249 G. Right to enter. The Development Services Manager or duly authorized representative shall have the
1250 right to enter upon the property for the purpose of inspecting the quality of materials and
1251 workmanship and reviewing the construction of required improvements during the progress of such
1252 construction.
1253

1254 H. Periodic inspection required; correction of deficiencies. The Development Services Manager or his
1255 designated engineering and utility inspectors shall periodically inspect all phases of construction of
1256 streets, drainage improvements and utility installations including those improvements which are not
1257 to be dedicated to the public but are subject to this chapter. The Development Services Manager will
1258 immediately call to the attention of the developer, or the developer's engineer, any nonconforming
1259 work or deficiencies in the work. Correction of deficiencies in the work is the responsibility of the
1260 developer. It is the responsibility of the developer's contractor to schedule the appropriate
1261 inspections as identified on the permit.
1262

1263 I. Stop work orders. The Development Services Manager shall have authority to stop work if
1264 improvements not authorized in the approved plan are being installed or upon failure of the applicant
1265 or his engineer to coordinate the construction of the required improvements so as to minimize
1266 activities which may have adverse impacts on surrounding property.
1267

1268 1. Authority. Whenever the Development Services Manger finds any work regulated by this code being
1269 performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the
1270 Development Services Manager is authorized to issue a stop work order. In addition, the Development
1271 Services Manager is authorized to issue a stop work order for the failure to contain or remove
1272 construction refuse as required in the Code of Ordinances, Chapter 9, Health and Sanitation.
1273

1274 2. Issuance. The stop work order shall be in writing and shall be given to the owner of the property
1275 involved, to the owner's agent, or to the person doing the work. Upon issuance of a stop work order,
1276 all work on the construction site shall immediately cease. The stop work order shall state the reason for
1277 the order, and the conditions under which the cited work will be permitted to resume.
1278

1279 3. Unlawful continuance. Any person who shall continue any work after having been served with a stop
1280 work order, except such work as that person is directed to perform to remove a violation or unsafe
1281 condition, shall be subject to penalties as prescribed by law.
1282

1283 J. Final inspections by Engineer of Record. Upon completion of all improvements required under the

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1284 approved plans or phase thereof, an inspection must be performed by the developer's engineer and
1285 the landscape architect. Upon finding the development to be completed and in substantial
1286 compliance with the approved plans, the engineer and landscape architect must each submit a letter
1287 of substantial compliance along with record drawings to the City. No final inspection will be performed
1288 by the City until the letter(s) of substantial compliance and record drawings have been accepted. The
1289 letter(s) of substantial compliance may include a description of minor changes as shown on the record
1290 drawings. Only minor changes which do not substantially affect the technical requirements of the
1291 approved plans and this code are to be indicated on the Record Drawings.

1292
1293 1. Letters of substantial compliance shall be digitally signed and sealed in PDF format. Substantial
1294 compliance requires that the development, as determined by an on-site inspection by a
1295 professional engineer, is completed to all the specifications of the approved plans and that any
1296 deviation between the approved plans and actual as-built construction is so inconsequential that,
1297 on the basis of accepted engineering practices, it is not significant enough to be shown on the
1298 Record Drawings.

1299
1300 2. The respective professionals shall prepare and submit to the City digitally signed and sealed Record
1301 Drawings, in PDF format, of the completed project improvements. Record drawings shall be provided
1302 for the complete civil engineering and landscape features of the project.

1303
1304 3. Record drawings shall be the complete set of approved plans which show strikethrough and markup of
1305 the as-built information obtained from direct field observation, survey, or contractor "as-built"
1306 drawings. Topographic surveys will not be accepted.

1307
1308 K. Final Inspections by the City. Upon acceptance of the letter of substantial compliance and record
1309 drawings, the Development Services Manager will perform final inspections.

1310
1311 1. If the final inspections reveal that the development or phase is in substantial compliance with the
1312 approved plans, a certificate of completion will be issued. A certificate of completion is required
1313 prior to the issuance of a certificate of occupancy from the building division for any buildings
1314 associated with the project.

1315
1316 2. If the final inspections reveal that the development or phase thereof is not in substantial
1317 compliance with the approved plans, a list of all deviations will be forwarded to the engineer. All
1318 deviations must be corrected prior to reinspection. A new letter of substantial compliance may
1319 be required prior to reinspection. Reinspection fees will be charged for each reinspection in
1320 accordance with the adopted fee schedule and must be paid prior to receiving a Certificate of
1321 Completion.

1322
1323 3. Projects involving permits or approvals issues by County, State or Federal agencies shall provide
1324 evidence that the respective agencies have approved, accepted or certified that the improvements or
1325 work subject to their review have been satisfactorily completed and are ready for use or to be placed
1326 into service. The City may withhold final Certifications of Completion or Occupancy pending receipt of
1327 such verification.

1328
1329 L. Turnover of developer installed improvements. Projects that include construction of improvements that will

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1330 be turned over to the City for ownership and maintenance must also provide a complete package of
1331 turnover documents, acceptable to the City, as required by the Director.

1332

1333 1. Improvements shall be conveyed to the City by bill of sale in a form satisfactory to the City Attorney,
1334 together with such other evidence as may be required by the City that the improvements proposed
1335 to be transferred to the City are free of all liens and encumbrances.

1336

1337 2. Turnover documents must be provided to the Development Services Manager with the submittal of
1338 the Certification of Substantial Completion and Record Drawings.

1339

1340 3. Improvements constructed pursuant to this Section may not be placed into service or otherwise
1341 utilized until the required certificate of compliance has been issued.

1342

1343 M. Ongoing compliance. A development project must remain in compliance with the approved SDP or
1344 SCP, including all conditions, after a letter of substantial compliance, certificate of compliance, or
1345 certificate of occupancy has been issued by the City. This requirement applies to any property covered
1346 by the SDP or SCP, whether or not it continues to be owned by the original developer. For purposes
1347 of determining compliance, the SDP or SCP as approved and constructed, or subsequently amended
1348 in accordance with this section, will control. The standards applicable to review for compliance
1349 purposes will be based upon the regulations in effect at the time the plan approval, any applicable
1350 amendment, or revision was constructed.

1351

1352 N. Violation of an approved SDP or SCP.

1353

1354 1. Where construction is commenced for improvements not authorized by a SDP or SCP, the
1355 applicant will be issued a stop work order until an application to amend or correct the respective
1356 plan approval has been submitted and approved.

1357

1358 2. An application to amend or correct a SDP or SCP after construction has commenced in violation
1359 of the original approval will be charged an application fee equal to four times the original
1360 application base fee.

1361

1362 3. Submittal of the application and payment of the application fee does not protect the applicant
1363 from the remedies described in Article 1, Section 1-6 of this Code. Any of these forms of relief can
1364 be sought or maintained by the City until the problem is abated.

1365

1366 4. Failure to maintain a development in compliance with a SDP or SCP issued and approved by a
1367 certificate of completion constitutes a violation of this Code.

1368

1369 O. Phased Projects. Development projects may be split into phases to accommodate the development
1370 plans and schedules of the developer.

1371

1372 1. Site Development Plans. The phasing plan shall show all required facilities, infrastructure, and
1373 buildings, if applicable, on the entire parcel that is covered by the SDP approval.

1374

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- 1375 a. If more than one building is covered by the SDP and the developer does not intend to
1376 receive certificates of occupancy (CO) for all of the buildings at one time, a separate Site
1377 Development Permit will be required for each build or builds to receive a CO apart from
1378 the other buildings.
1379
- 1380 b. A certificate of compliance for streets, utilities, parking areas, and drainage serving each
1381 building(s) will be required from the engineer of record prior to the City performing final
1382 inspection and closing permit and prior to receiving a certificate of occupancy from the
1383 Building Division.
1384
- 1385 c. If a final inspection is requested for only a portion of a development, that portion must be
1386 an approved phase of the development in accordance with the approved SDP.
1387
- 1388 2. Subdivision Construction Plans. Phasing of the SCP shall be in accordance with the PSP
1389 approval as established in Article 10.
1390

Section 3.3.9 Temporary Use Permits.

- 1391
1392
- 1393 A. Purpose and Intent. To authorize the temporary uses and activities which do not exceed specific
1394 time frames:
1395
- 1396 B. General Standards.
1397
- 1398 1. Only those uses that are listed below or otherwise approved as temporary uses in Article 5, may
1399 be allowed as temporary uses.
1400
- 1401 2. Each temporary use shall be evaluated by the Community Development Department for
1402 compliance with the standards and conditions set forth in the LDC and the applicable zoning
1403 district. Special event uses are evaluated by the Parks and Recreation Department.
1404
- 1405 3. A temporary use permit shall take effect at the time of permit issuance and is in effect only for
1406 the specific time-period established in the temporary use approval.
1407
- 1408 C. Review Criteria. When considering an application for a temporary use, the Community Development
1409 Director or Parks and Recreation Director, as appropriate, shall consider whether and the extent to
1410 which:
1411
- 1412 1. The temporary use is consistent with the purposes, goals, objectives, and policies of the
1413 Comprehensive Plan;
1414
- 1415 2. The temporary use complies with all relevant and appropriate portions of Article 5, Development
1416 Standards;
1417
- 1418 3. The temporary use is not incompatible with the character of the immediate surrounding area;
1419

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- 1420 4. The design, duration, and hours of operation of the temporary use minimizes adverse impacts on
1421 nearby properties, including visual and noise impacts;
1422
- 1423 5. Whether the use complies with all relevant standards related to health, sanitation, and
1424 transportation;
1425
- 1426 6. The temporary use complies with all other applicable provisions of this Code;
1427
- 1428 7. Any permanent structures used in conjunction with a temporary use must comply with the
1429 requirement for adequate public facilities referenced in the comprehensive plan; and
1430
- 1431 8. Whether any public safety detail will be necessary.
1432
- 1433 D. Allowable temporary uses: The following temporary use shall require a permit:
1434
- 1435 1. Temporary storage.
1436
- 1437 2. Seasonal sales.
1438
- 1439 3. Construction trailers.
1440
- 1441 4. Construction staging areas and post disaster debris staging.
1442
- 1443 5. Temporary sales offices.
1444
- 1445 6. Temporary habitable structures.
1446
- 1447 7. Special Events.
1448
- 1449 **Section 3.3.10. Temporary storage.**
1450
- 1451 A. Temporary storage containers are prohibited in any zoning district of the city, except as follows:
1452
- 1453 1. Residential zoning districts. No more than one temporary storage container per dwelling unit is
1454 permitted in residential zoning districts.
1455
- 1456 2. Non-residential zoning districts. No more than two temporary storage containers are permitted
1457 in non-residential zoning districts. In the case of multi-tenant non-residential properties, each
1458 business or tenant may have a temporary storage container.
1459
- 1460 3. This section is not intended to restrict the storage or location of temporary storage
1461 containers on the premises of a business which is lawfully engaged in the sale, rental, or
1462 distribution of such containers so long as the containers are on the property of such business
1463 as "merchandise" and not for temporary storage of items or goods.
1464

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1465 4. The provisions of this section shall not apply to prohibit or restrict the location of temporary
1466 storage containers on any property for which a valid City of Cape Coral building permit has
1467 been issued and is in effect provided that the construction on the property has not been
1468 abandoned or allowed to lie idle in violation of Chapter 9 of the City of Cape Coral Code of
1469 Ordinances.

1470

1471 B. General Requirements:

1472

1473 1. No temporary storage container may be placed in one or more parking spaces if the required
1474 number of parking spaces is reduced below the minimum number of spaces required for the
1475 site.

1476

1477 2. No temporary storage container shall block or reduce access to fire lane(s), handicapped
1478 parking area(s), or drainage facilities or structures, including swales and catch basins.

1479

1480 3. Temporary storage containers shall not be placed in an easement or in any area designated
1481 as a buffer.

1482

1483 4. The maximum size of temporary storage containers shall not exceed ten feet in width, ten
1484 feet in height, or 40 feet in length.

1485

1486 5. Non-residential zoning districts. Temporary storage container permits are valid for 30 days.
1487 A maximum of two temporary storage container permits may be issued for a property or, in
1488 the case of multi-use or multi-unit properties, for each business or commercial enterprise
1489 located on the property in any calendar year. Temporary container permits may run
1490 consecutively without any minimum period required to elapse between the issuance of
1491 permits.

1492

1493 6. Residential zoning districts. Temporary storage container permits are valid for seven days. A
1494 maximum of two temporary storage container permits may be issued in any calendar year.
1495 Temporary container permits may run consecutively without any minimum period required
1496 to elapse between the issuance of permits. No dwelling unit shall utilize a temporary storage
1497 container for more than 14 days in any 12-month period.

1498

1499 **Section 3.3.11 Seasonal sales.**

1500

1501 A. Except as provided herein, temporary outdoor seasonal sales of merchandise are prohibited.
1502 Seasonal sales of pumpkins, Christmas trees, or fireworks are permitted when conducted or
1503 sponsored by governmental agencies, nonprofits, charitable or religious organizations, sports,
1504 educational groups, social groups such as garden clubs, and fraternities or sororities. Seasonal sales
1505 of Girl Scout cookies and similar sales are permitted.

1506

1507 B. Permitted seasonal fundraising events involving outdoor sales of merchandise shall meet the
1508 appropriate requirements of the Building Code, Electrical Code, Fire (Life Safety) Code, and
1509 Plumbing Code, particularly regarding temporary sanitary facilities; and are prohibited unless they
1510 received all required permits in compliance with this subsection. Sales of pumpkins, Christmas

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1511 trees, or fireworks shall be permitted in all zoning districts except R1, RML, RE, MX7, and PV, . With
1512 the prior approval of the City, such sales may be permitted in accordance with the following
1513 limitations and requirements:

1514

1515 1. Pumpkins may be sold from October 1 through November 5;

1516

1517 2. Christmas trees may be sold from November 15 through January 1;

1518

1519 3. Fireworks may be sold from December 15 through January 1 and from June 1 through July
1520 10;

1521

1522 4. The hours of operation of all such seasonal sales shall be limited to 8:00 a.m. through 10:00
1523 p.m.; and

1524

1525 5. Seasonal sales shall comply with all location and permitting requirements specified in § 3.2.1.

1526

1527 C. In the RMM zoning districts, the City may withhold approval of the seasonal sale if he or she
1528 determines that such sale would result in adverse impacts on the surrounding neighborhood.
1529 Alternatively, the City may place condition(s) on the approval of a seasonal sale in an RMM zoning
1530 district, if such condition(s) are necessary in order to protect the surrounding neighborhood from
1531 adverse impacts which would otherwise result from the seasonal sale.

1532

1533 **Section 3.3.12 Construction trailers.**

1534

1535 A. Construction trailers in residential zoning districts are subject to the following requirements.

1536

1537 1. Construction trailers shall not be connected to potable water and sewer facilities. If the
1538 construction trailer is wired for electricity, the wiring must conform to all applicable city
1539 electric codes.

1540

1541 2. The construction trailer must be removed from the site prior to issuance of a certificate of
1542 occupancy.

1543

1544 3. No overnight residential use shall be permitted in a construction trailer.

1545

1546 4. Construction trailers must comply with the setback requirements of the zoning district or the
1547 site.

1548

1549 5. Construction trailers shall not be larger than 200 square feet.

1550

1551 B. Construction trailers in non-residential zoning districts are subject to the following
1552 requirements.

1553

1554 1. When a construction trailer is used as a temporary office, the trailer must be wired for
1555 electricity and must be connected to potable water and sewer facilities, if available. Wiring
1556 and plumbing must conform to applicable Electric and Plumbing Codes.

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- 1557
1558 3. The construction trailer must be located at the construction site or an abutting site with the
1559 property owner's written permission.
1560
1561 4. The construction trailer must be removed from the site prior to issuance of a certificate of
1562 occupancy.
1563
1564 5. No overnight residential use shall be permitted in a construction trailer.
1565
1566 6. Construction trailers must comply with the setback requirements of the zoning district or the
1567 site.
1568

1569 **Section 3.3.13 Construction staging areas and post disaster debris staging.**
1570

- 1571 A. Contractor staging for essential public facilities. Contractor staging areas for materials used in
1572 construction of essential public facilities are permitted in all zoning districts, subject to the following
1573 requirements:
1574
1575 1. The temporary staging area shall serve a project being carried out in the vicinity of the
1576 construction staging area;
1577
1578 2. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;
1579
1580 3. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through
1581 Saturday only.
1582
1583 4. Fencing required
1584
1585 5. No structures other than a permitted construction trailer may be placed on the property.
1586
1587 6. No outdoor lighting is permitted for any staging area in a residential zoning district.
1588
1589 B. Construction staging areas. Construction staging areas are a permitted activity in all zoning districts,
1590 provided the staging area is on the same parcel where construction activity is authorized by a valid
1591 building permit. Construction staging areas on vacant, adjoining, or nearby parcels is prohibited.
1592
1593 C. Post disaster debris staging areas. Post disaster debris staging areas are allowed in all zoning
1594 districts on sites designated by the City for such activity.
1595
1596 D. Post disaster construction staging. Staging areas for post disaster reconstruction efforts are allowed
1597 in all non-residential zoning districts. Post disaster construction staging is allowed in residential
1598 zoning districts as a (special exception/conditional) use.
1599

1600 **Section 3.3.14 Temporary sales offices.**
1601

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- 1602 A. Temporary sales offices are mobile structures used only for the sale or lease of units within that
1603 development. For the purpose of this section, units within the development shall mean
1604 residential, non-residential, or mixed use habitable space or leasable floor area, whether
1605 occupying all of a building or individual areas within a building including residential units,
1606 residential or non-residential units, individual units in a multi-unit non-residential development,
1607 or freestanding residential or non-residential structures.
1608
- 1609 B. Requirements for a temporary sales office. The following requirements must be met prior to the
1610 approval of a temporary sales office:
1611
- 1612 1. Connection to sewer and water is required. If sanitary sewer and potable water are unavailable
1613 to the site, bottled water and portable sanitary facilities may be utilized until such time as
1614 sanitary sewer and potable water are available. A temporary sales office shall be connected to
1615 such facilities within 90 days of availability or within 90 days of the permitted temporary sales
1616 office, whichever is less.
1617
 - 1618 2. The temporary sales office shall meet the setbacks of the zoning district in which it is located.
1619
 - 1620 3. A temporary sales office shall not be used as a place of habitation or abode by any person(s),
1621 and shall not be used or occupied for business, office, or other purpose(s) at any time except
1622 between the hours of 7:00 a.m. and 9:00 p.m.
1623
 - 1624 4. A minimum of three paved off-street parking spaces shall be provided for the temporary sales
1625 office.
1626
 - 1627 5. The entrance to the site on which the temporary sales office is located shall consist of a city
1628 approved driveway or construction entrance. Any impervious area added for the temporary
1629 sales office shall be subject to review and approval by the city.
1630
 - 1631 6. The base of any temporary sales office shall be fully obscured by landscaping and skirting.
1632 Shrubs must be planted on 30-inch centers and have a minimum planted height of two feet.
1633 The type of irrigation, if applicable, must also be provided on the plan. Erosion shall be
1634 minimized and prevented to the extent practicable around any disturbed area.
1635
 - 1636 7. The maximum duration of the permit shall not exceed one year. The Director may extend
1637 permits for up to six months each, based upon factors that include:
1638
 - 1639 a. Size of the project.
 - 1640
 - 1641 b. Number of lots or units in the development remaining to be sold or leased.
 - 1642
 - 1643 c. Effect that the extension would have on the surrounding properties.
 - 1644
 - 1645 d. Developer's need for an extension and efforts, if any, the developer has put forward
1646 toward completion of the development (e.g., effort to complete construction in a timely
1647 manner, delays beyond the reasonable control of the developer, etc.).

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- 1648
- 1649 8. A temporary sales office shall be removed no later than the date the development is completed
- 1650 or within 30 days after notice by the city that the application for development has been denied,
- 1651 whichever is applicable.
- 1652
- 1653 C. Permit application and submittal requirements. A permit shall be required for a temporary sales
- 1654 office. In order to obtain a permit for the use of a structure for a temporary sales office, the
- 1655 applicant shall submit the following to the Department of Community Development:
- 1656
- 1657 1. A scaled drawing of the site, identifying the location of the temporary sales office with
- 1658 dimensions. Construction plans shall also be submitted.
- 1659
- 1660 2. The names of the property owner and the operator of the temporary sales officer. In the
- 1661 event the operator is different from the property owner, written and notarized consent from
- 1662 the property owner must be submitted. Such written consent shall be revocable. In the event
- 1663 such consent is revoked, the temporary sales office shall be removed within 30 days.
- 1664
- 1665 3. The length of time the temporary mobile sales office is proposed for the site.
- 1666
- 1667 4. The description of potable water and sanitary facilities that will be available for the
- 1668 temporary office.
- 1669
- 1670 D. Inspection by city officials. In order to ensure compliance with all applicable laws and regulations,
- 1671 the temporary sales office shall be held open for reasonable inspection, without court order, by
- 1672 employees or agents of the City of Cape Coral or any other duly authorized governmental agency.
- 1673

1674 **Section 3.3.15 Temporary Habitable structures.**

1675

- 1676 A. Purpose and intent. The purpose of this ordinance is to provide a means by which residents,
- 1677 business owners, governmental agencies, and medical facilities are able to live and conduct
- 1678 business on the same site as their damaged structure using temporary housing and temporary
- 1679 business structures. When disasters result in significant destruction rendering homes and
- 1680 businesses uninhabitable, temporary housing and temporary business structures will provide
- 1681 residents and businesses with the ability to quickly resume normal activities during the restoration
- 1682 of their permanent structures.
- 1683
- 1684 B. Definitions. Terms used in this subsection shall have the meanings as defined in Article 11,
- 1685 Definitions, unless the context clearly indicates or requires a different meaning.
- 1686
- 1687 C. Declaration of habitable structure emergency. Following a disaster, the city shall evaluate the
- 1688 effect of the disaster on the public health, safety, and welfare. If the City Council finds that the
- 1689 disaster has negatively affected residential housing or business structures in the city by a
- 1690 significant degree, the City Council may, by a majority vote, declare the existence of a habitable
- 1691 structure emergency. Upon the declaration of a habitable structure emergency by vote of the
- 1692 City Council, the provisions of this subsection shall become effective. The habitable structure
- 1693 emergency shall identify the disaster which created the emergency situation, and may be

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1694 declared for either a specified period of time or an indefinite period of time. If the emergency is
1695 for an indefinite period of time, the emergency shall continue until City Council, by a majority
1696 vote, terminates the habitable structure emergency.
1697

1698 D. Habitable structure emergencies. During a habitable structure emergency, the city will allow, in
1699 accordance with the provisions set forth herein, the use of temporary structures. Temporary
1700 residential structures and temporary business structures must be approved by the city with a
1701 temporary placement permit. Application and issuance criteria for a temporary placement permit
1702 are as set forth below.
1703

1704 E. Temporary business structures may be used for business owners to provide a means for a business
1705 to remain open during the time the permanent business structure is being repaired or replaced.
1706 Temporary business structures may be used to provide temporary facilities for governmental uses,
1707 critical public facilities, charitable, religious, or educational institutions that have been rendered
1708 uninhabitable. The regulations for temporary business structures shall apply to temporary business
1709 structures used for governmental uses, critical public facilities, charitable, religious, or educational
1710 institutions. For these institutions, the habitable structure regulations shall apply; however, the
1711 Building Official may waive any regulations when strict enforcement may preclude them from
1712 carrying out their normal or emergency functions. Critical facilities shall be limited to the following:
1713

- 1714 1. Federal, state, regional, or local government facilities;
- 1715
- 1716 2. State, county, or local emergency operations centers;
- 1717
- 1718 3. Police, fire, and emergency medical facilities;
- 1719
- 1720 4. Radio and television stations;
- 1721
- 1722 5. Public, semi-public, and privately-owned utilities;
- 1723
- 1724 6. Hospitals, emergency medical care facilities, infusion centers, dialysis centers, physician's
1725 offices; and
- 1726
- 1727 7. Nursing homes and assisted living facilities.
- 1728

1729 F. Temporary placement permit. Following the declaration of a habitable structure emergency, a
1730 property owner may apply for a temporary placement permit (TPP) to locate onsite while the
1731 permanent structure is being repaired or rebuilt. A temporary placement permit (TPP) may be
1732 considered by the Building Official when the following criteria are met:
1733

- 1734 1. The existing permanent habitable structure has been determined to be uninhabitable as the
1735 result of a disaster by inspection of the city Building Official;
- 1736
- 1737 2. The property owner or occupant of a damaged structure desires to locate in a temporary
1738 residential or business structure; and
1739

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- 1740 3. A habitable structure emergency must be in effect at the time of application.
1741
1742 G. Applications for temporary placement permits.
1743
1744 1. Application forms and required fees.
1745
1746 2. The following permits are required prior to application for a TPP:
1747
1748 a. City permits for hook-up to electric, potable water, and wastewater utilities; and
1749
1750 b. A State Department of Health or State Department of Environmental Protection permit
1751 authorizing the connection of the temporary residence to an onsite or small domestic
1752 wastewater treatment system.
1753
1754 H. Time limits. Temporary structures may be located for a period not to exceed 30 days. At the end
1755 of that 30-day period, if no application has been filed, the temporary habitable structure must
1756 be immediately removed from the site. If an application has been filed within the 30-day time
1757 period, the temporary habitable structure may remain in place until the TPP is either approved
1758 or denied. Once approved, the temporary habitable structure may remain in accordance with the
1759 TPP. If denied, the temporary structure shall be removed within five days from the date of denial.
1760
1761 I. Terms of use of temporary habitable structures. Applicants for a temporary habitable structure
1762 shall be subject to the following:
1763
1764 1. Except as otherwise provided herein, temporary structures shall not be occupied until such
1765 time as a valid TPP has been issued and is in effect for the site.
1766
1767 2. Connection to sanitary sewer and potable water, or onsite water and wastewater facilities,
1768 and an external electrical system are required within 20 days of issuance of the TPP.
1769 Inspections for such connections shall be called into the city within two days of completion
1770 of each connection. Electrical and plumbing connections must be done by electricians or
1771 plumbers licensed to do business in the City of Cape Coral.
1772
1773 If there is no electricity to the site due to a power outage, a generator may be used. Upon
1774 restoration of electricity to the property, connection to the local power grid must be made
1775 within 24 hours of power restoration.
1776
1777 3. An application for a building permit is required within three months from the date of
1778 issuance of the TPP for temporary residential structures or within six months for temporary
1779 business structures. Failure to apply for a building permit within the required time shall deem
1780 the TPP revoked pursuant.
1781
1782 4. If a building permit application has not been submitted within the required time-frames, an
1783 applicant may petition City Council for relief from the time restrictions of this subsection.
1784 City Council shall determine whether the failure to apply for a building permit is due to good
1785 cause shown by the applicant. If City Council denies the request for relief, the temporary

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- 1786 structure shall be removed from the site within ten days from the date of denial, or at the
1787 end of the initial three-month period for temporary residential structures, or at the end of
1788 the initial six-month period for temporary business structures, whichever is later.
1789
- 1790 5. Temporary habitable structures with a TPP may be used until the earlier of: 1) completion of
1791 the rehabilitation or reconstruction of the damaged structure; or 2) until such time as the
1792 owner or occupants of the damaged structure are established in a permanent structure at
1793 another location.
1794
- 1795 6. Occupants must comply with all mandatory hurricane evacuation requirements.
1796
- 1797 J. Temporary structures. Temporary habitable structures must comply with the following:
1798
- 1799 1. Temporary residential structures may consist of a recreational vehicle or a travel trailer.
1800 Temporary business structures may consist of recreational vehicles, travel trailers, or mobile
1801 offices. At the discretion of the Building Official, additional types of temporary business
1802 structures may be allowed, consistent with applicable federal, state, and local regulations and
1803 the provisions of this ordinance.
1804
- 1805 2. Must meet all applicable National Fire Protection Association and Life Safety codes and
1806 regulations as well as all applicable state and local requirements for tie-downs.
1807
- 1808 3. Shall contain plumbing (both water and wastewater) and electrical connections and shall be
1809 capable of being hooked up or attached to external plumbing and electrical systems. Temporary
1810 residential structures shall contain a kitchen capable of being hooked up or attached to external
1811 plumbing and electrical systems. Requirements for temporary business structures shall be
1812 based upon the proposed use.
1813
- 1814 4. Shall meet the Florida Accessibility Code for building construction amenities.
1815
- 1816 K. Placement of temporary habitable structures. The following site considerations are required for
1817 placement of a temporary habitable structure:
1818
- 1819 1. Temporary residential structures may be anywhere on the site of the existing permanent
1820 residence; however, no a temporary residence is allowed within road rights-of-way or
1821 drainage or utility easements. The city may waive any development regulations regarding lot
1822 areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
1823 temporary residential structures.
1824
- 1825 2. Where more than one existing permanent residence has been rendered uninhabitable, the
1826 Building Official may allow up to the number of damaged permanent residences or residential
1827 units on the site. Such determination shall be based upon consideration of life, health, and
1828 safety requirements.
1829
- 1830 3. For temporary business structures:
1831

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- 1832 a. Temporary business structures may be anywhere on the parcel of the existing business;
1833 however, temporary business structures are not allowed within road rights-of-way or
1834 drainage or utility easements. The city may waive any development regulations regarding
1835 lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
1836 temporary business structures.
1837
- 1838 b. Temporary business structures may be on property adjacent to the permanent business
1839 structure if a notarized, written consent from the property owner is submitted at the
1840 time of application for a TPP.
1841
- 1842 c. The establishment of an emergency response team center on a parcel containing a
1843 business does not necessarily preclude the placement of one or more temporary business
1844 structures on the same parcel.
1845
- 1846 d. Parking for a temporary business structure shall be provided based upon the square footage
1847 of the temporary business structure, including handicapped parking. However, a minimum
1848 of two handicapped parking spaces must be provided.
1849
- 1850 e. The entrance to the site shall have a city approved driveway or construction entrance.
1851 Any impervious area added for the temporary business structure shall be subject to
1852 review and approval by the city.
1853
- 1854 f. Additional conditions or restrictions may be placed on a temporary business structure as
1855 a condition of issuance in areas including, but not limited to, the following:
1856 i. Hours of operation;
1857 ii. Traffic control and access;
1858 iii. Lighting; and
1859 iv. Noise control.
1860
- 1861 L. Issuance and revocation. The Building Official may revoke a TPP upon finding that any of the
1862 following has occurred:
1863
- 1864 1. Failure to connect to water, sewer, and electrical within 20 days of the receipt of the TPP.
1865
- 1866 2. If an application for a building permit has not been submitted within required time from the
1867 date of receipt of the TPP, or relocation has not occurred before the time of expiration of the
1868 TPP, or, if a building permit later expires.
1869
- 1870 3. If, upon inspection by the Building Official, a temporary residence is not in compliance with
1871 the requirements of this subsection.
1872
- 1873 4. Failure to evacuate temporary residence during mandatory evacuation orders.
1874
- 1875 5. Upon revocation of a TPP, the temporary residence must be vacated and the temporary
1876 residence removed within five days of revocation. Failure to vacate or remove the temporary
1877 residence constitutes a violation subject to the penalty imposed herein.

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M. Extensions and expiration of temporary placement permits.

1. Residential TPPs shall be valid for six months from the date of issuance. The Building Official may, for good cause shown, issue up to two extensions for six months each, for an 18-month maximum period of validity from the date of issuance.
2. Non-residential TPPs shall be valid for nine months from the date of issuance. The Building Official may, for good cause shown, issue up to two extensions for six months each, for a 21-month maximum period of validity from the date of issuance.
3. All applications for extensions of time must be submitted prior to the date of expiration of the current TPP.
4. Any further extensions after the second extension and maximum time period may not be issued by the Building Official: however, applicants may submit a request to City Council for their approval of any further extension of time for the TPP.
5. Factors to be considered by the Building Official or the City Council in determining whether to grant an extension of time of the TPP shall include:
 - a. The ability of the property owner or occupant of the temporary residential or business structure to secure permanent quarters; and
 - b. Any hardship that, in the opinion of the Building Official or City Council, as applicable, would warrant a further extension of the TPP.
6. Upon the, expiration of a TPP, a temporary residence or business structure must be removed or placed in proper storage on the property within 30 days. Failure to remove or properly store the temporary residence or business structure constitutes a violation subject to the penalty imposed herein.
7. Termination of temporary habitable structure. Once an uninhabitable structure has been issued a certificate of occupancy or certificate of use for a new or rehabilitated residence, business, or institutional facility, the TPP shall be deemed to be terminated. A temporary residential or business structure must then be removed or placed in proper storage on the property within 30 days. Failure to remove or properly store the temporary residence or business structure constitutes a violation subject to the penalty imposed herein.
8. Penalty. Any violation of the provisions of this subsection shall be subject to a \$500 fine. Each day of violation shall constitute a separate offense and shall be punishable as such.

Section 3.3.16 Special Events.

- A. Special events in the city are administered and permitted by the Parks and Recreation Department.

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- 1924 B. Application and general requirements. Special events permits may be issued provided the following
1925 requirements are met:
1926
- 1927 1. A completed, signed, and notarized application shall be submitted no less than 60 days prior to
1928 the opening of the event. The application shall include the name and address of each applicant
1929 sponsoring the special event, the dates, times, and specific details of the event, and a list of all
1930 special events that the applicant has sponsored in the City for the past three years. Exceptions
1931 to the 60-day requirement may be approved by the Director of Parks and Recreation based on
1932 the size, duration, or nature of the event. The city reserves the right to verify the applicant's
1933 previous history of sponsoring special events with other jurisdictions.
1934
 - 1935 2. A refundable clean-up deposit is submitted. The property shall be cleaned within 48 hours of
1936 the close of the event and returned to substantially the same condition that existed just prior
1937 to the start of the event or better. The clean-up deposit will be refunded upon satisfactory
1938 inspection of the property by the city after the event closes. If the property is not returned to
1939 substantially the same condition that existed just prior to the start of the event, or better, the
1940 city, in its sole discretion, may utilize the clean-up deposit to do so and refund the remainder,
1941 if any, to the applicant.
1942
 - 1943 3. A site plan of the event venue and surrounding property shall be submitted. The site plan
1944 shall show the layout of all activities, such as stages, equipment, including location(s) where
1945 sound amplification equipment, if any, will be allowed, amusement rides, animal displays,
1946 etc., and all support facilities including egress and ingress locations, parking, refuse
1947 collection, sanitation, and lighting. The site plan shall also identify the presence of any
1948 environmentally sensitive issues including eagles, burrowing owls, tortoises, osprey, etc.
1949
 - 1950 4. If the applicant does not own the property for the special event or associated parking, a signed
1951 and notarized letter of permission from the property owner is required, along with a release
1952 and indemnification agreement in a form accepted by the City Attorney. If the applicant intends
1953 to transport patrons to the special event from a specified parking area, complete details
1954 including all traffic routes to be utilized shall be submitted to the city for approval.
1955
 - 1956 5. Insurance requirements.
1957
 - 1958 a. Certificates of insurance for all properties used for the event must be submitted to the
1959 Parks and Recreation Department for approval by the City Risk Manager no less than 21
1960 days prior to the event.
1961
 - 1962 b. Applicants and vendors shall have commercial and general liability insurance, including
1963 coverage for independent contractors, premises and operations, contractual liability,
1964 products and completed operations, personal injury, and property damage. Insurance
1965 coverage shall be no less than \$1,000,000 combined single limit for bodily injury and
1966 property damage and no less than \$1,000,000 for liquor liability, if applicable.
1967
 - 1968 c. Vendors shall also have motor vehicle liability insurance of no less than \$1,000,000 per
1969 vehicle and worker's compensation coverage as required by statute.

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- d. The City of Cape Coral shall be named as additional insured. Certificates of insurance shall show the City of Cape Coral as the certificate holder.
- 6. All applicable city ordinances and building, fire, and electrical codes shall be complied with.
- 7. Most events shall require off-duty City of Cape Coral police officers to be hired for the duration of any event to include one hour before opening and one hour after closing. The Police Chief shall determine the exact number of officers required, if any, based upon the size and nature of the event and past experience with similar events. The cost for the off-duty detail shall be set using the present rate charged by the Police Department which shall be paid by the applicant prior to the issuance of the permit. All applicants must comply with any rules or regulations imposed by the Police Chief which are consistent with this section.
- 8. Most events shall require off-duty City of Cape Coral firefighters or paramedics, to be hired for the duration of any event to include one hour before opening and one hour after closing. The Fire Chief shall determine the exact number of firefighters or paramedics required, if any, based upon the size and nature of the event and past experience with similar events. The cost for the off-duty detail shall be set using the present rate charged by the Fire Department which shall be paid by the applicant prior to the issuance of the permit. All applicants must comply with any rules or regulations imposed by the Fire Chief which are consistent with this section. In the event the Fire Chief determines that special equipment such as all-terrain vehicles, trailers, fireboats, fire and rescue assets, and appropriate personnel for the special equipment are necessary, the city reserves the right to request reimbursement for all or part of the discretionary cost from the applicant.
- 9. No open flame or other device emitting flames or fire shall be used in any tent or air supported structure while open to the public.
- 10. All equipment including tents, stages, amusement rides, utility areas, ingress and egress points, and cooking areas shall be inspected and approved by city fire inspectors or state officials, if applicable, prior to the opening of the event. If applicable, inspection certificates and annual permits as required by the State of Florida, shall be submitted to the city prior to the opening of the event. All equipment or amusement rides, other than those which are patron-operated or controlled, shall only be operated by persons over 18 years of age who are employed by the applicant and who are thoroughly familiar with the operation of said equipment or amusement rides. The operator of such equipment or amusement rides shall be in the immediate vicinity of the operating controls at all times during the operation of the equipment or amusement rides and no unauthorized person shall be permitted to handle the controls during operation.
- 11. Any person, entity, group, or organization engaging in speech, expression, or assembly, which is protected by the First Amendment of the United States Constitution or by Article I, Section 4 of the State of Florida Constitution, may do so during a Special Event, subject to the following reasonable time, place, and manner regulations.

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12. If sound amplifying equipment is present on public or private property at the special event, the Director of Parks and Recreation shall establish one or more designated areas where such amplified sound may occur. If amplified sound is not permitted for the special event, all amplified sound shall be prohibited; however, nothing in this regulation shall serve to prohibit protected speech, expression, or assembly utilizing non-amplified, reasonable sound. For purposes of this paragraph, amplified sound caused by the police or fire departments of the city in the performance of their official duties, and public background sound, shall not be considered amplified sound so as to allow others to use sound amplifying equipment.
- 2026
2027
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2030
13. The Director of Parks and Recreation shall be responsible for the provisions of this section, department rules and regulations, and city ordinances. No action shall be taken to enforce this section until a warning to cease such a violation has been issued by a person authorized to enforce this section and the violator continues such violation.
- 2031
2032
2033
14. No person shall be permitted into, or remain on, private property covered by any special event permit for an event open to the public without the consent of the permittee.
- 2034
2035
2036
15. If a special event is open to the public only upon a payment of an entry fee or charge, no person shall be permitted into the special event without first paying the entry fee or charge.
- 2037
2038
2039
16. No person shall unreasonably hamper, obstruct, impede, or interfere with any person, entity, group, or organization hosting a permitted special event.
- 2040
2041
2042
17. All requirements of this section are subject to modification or waiver by the City Council based upon the size, duration, nature of the event, and the city's involvement.
- 2043
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2045
- C. Review Criteria. In determining whether a permit shall be issued, the Director of Parks and Recreation shall consider certain criteria including:
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2052
1. The size, duration, and nature of the event;
 2. Previous history of organizing one or more events within the City and whether any events created hazards or safety situations;
 3. Other events previously scheduled during the same time period within the city; and
 4. If the applicant has been adjudicated guilty of violating any provision of this section. Any adjudication may constitute grounds for denial of future special events permits by the city.
- 2053
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2055
- D. Permit Decision.
- 2056
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2060
1. The Director of Parks and Recreation may, in his or her sole discretion, deny the applicant a permit for the special event within the City of Cape Coral.

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- 2061 2. The Director of Parks and Recreation shall have the authority to designate one or more areas
2062 during any Special Event for specific activities and to prohibit other activities within designated
2063 areas. Designated areas shall be posted when such posting is appropriate.
2064
- 2065 3. Order to cease operation. If the Director of Parks and Recreation Department determines
2066 that proper provisions have not been made for the protection of the public health, safety, or
2067 welfare he or she may issue an order to cease operating said special event until such time as
2068 satisfactory corrective action has been taken.
2069

2070 E. Violations and Penalties.

- 2071
- 2072 1. Intentional underestimation of the expected number of persons attending the event or
2073 failure to comply with any provision of this section, shall constitute a violation of this section,
2074 and shall subject the applicant to the code enforcement provisions and procedures provided
2075 in §§ 2-81 through 2-96 of the City of Cape Coral Code of Ordinances including any and all
2076 provisions that allow the city to seek relief as otherwise provided by law.
2077
- 2078 2. Penalty. A violation of this section shall be punishable by a minimum fine of \$100 and a
2079 maximum fine of \$500, in addition to the taxation of any court costs, or imprisonment for a
2080 term not to exceed 60 days, or by both a fine and imprisonment.
2081

2082 **CHAPTER 4. SPECIFIC REVIEW PROCEDURES - QUASI-JUDICIAL PERMITS AND APPROVALS**

2083

2084 **Section 3. 4.1 General Requirements**

2085

2086 Effective Date. All quasi-judicial permits where the Hearing Examiner issues the final decision shall take
2087 effect on the date the Hearing Examiner Order for the application in question is recorded in the public
2088 record.
2089

2090 **Section 3.4.2 Deviations**

- 2091
- 2092 A. Purpose and Intent. To grant relief from strict application of LDC requirements to allow minor
2093 deviations.
2094
- 2095 B. Scope. Deviations may be granted for the following:
2096
- 2097 1. Non-residential design standards in Article 5, Chapter 8.
2098
- 2099 2. Landscaping deviations in Article 5, Chapter 5, which do not qualify for an administrative
2100 deviation.
2101
- 2102 3. Design standards in the NC district.
2103
- 2104 C. Review Criteria. A Deviation may be approved based on the following criteria:
2105
- 2106 1. The proposed deviation will not result in development that is inconsistent with the intended

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2107 character of the applicable zoning district.

2108

2109 2. The normally required code standard(s) is determined to significantly inhibit development of the
2110 site.

2111

2112 3. The deviation will not impede the ability of the project or site to adequately provide for service
2113 areas and other development features for the project.

2114

2115 4. Access for service and emergency vehicles will not be impeded.

2116

2117 5. The proposed deviations will result in a building and site design of equal or superior quality.

2118

2119 D. Effective date of approval. A deviation shall take effect upon approval by the Hearing Examiner.

2120

2121 **Section 3.4.3 Variances.**

2122

2123 A. General.

2124

2125 1. A variance may be sought from any bulk, area, or dimensional standard contained in Article 4,
2126 Zoning Districts or Article 5, Development Standards of the LDC.

2127

2128 2. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no
2129 permitted use of land, structures, or buildings in other districts, shall be considered grounds for
2130 the issuance of a variance.

2131

2132 B. Approval Criteria. In order to authorize a variance, the Hearing Examiner must find that the application
2133 meets all of following criteria:

2134

2135 1. That special conditions and circumstances exist which are peculiar to the land, structure, or
2136 building involved and which are not applicable to other lands, structures, or buildings in the same
2137 zoning district;

2138

2139 2. That the special conditions and circumstances do not result from the actions of the applicant;

2140

2141 3. That granting the variance requested will not confer on the applicant any special privilege that is
2142 denied by these regulations to other lands, buildings, or structures in the same zoning district;

2143

2144 4. That literal interpretation of the provisions of the regulations would deprive the applicant of rights
2145 commonly enjoyed by other properties in the same zoning district under the terms of these
2146 regulations and would cause or impart unnecessary and undue hardship on the applicant;

2147

2148 5. That the variance granted is the minimum variance that will make possible the reasonable use of
2149 the land, building, or structure;

2150

2151 6. That granting the variance will not change the use to one that is not permitted in the zoning
2152 district or different from other land in the same district; and

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2153
2154 7. That the granting of the variance will be in harmony with the general intent and purpose of these
2155 regulations, and that the variance will not be injurious to the area involved or otherwise
2156 detrimental to the public welfare.

2157
2158 C. Effect of Approval. An approved variance shall run with the land.
2159

2160 **Section 3.4.4. Special Exceptions.**

2161
2162 The intent of this section is to permit Special Exception uses which are essential to, or would promote
2163 the public health, safety, or welfare in one or more zoning districts, but which might impair the integrity
2164 and character of the zoning district or in adjoining districts, such that restrictions or conditions on
2165 location, size, extent, and character of performance may be imposed in addition to those standards
2166 already imposed in the Land Development Code.

2167
2168 A. General.

2169
2170 1. No variances shall be granted that would reduce or eliminate minimum requirements for special
2171 exception uses.

2172
2173 2. The Hearing Examiner may prescribe appropriate conditions and safeguards in conformity with
2174 the special exception use requirements. All such conditions shall be part of the terms under
2175 which the special exception is granted.

2176
2177 3. A special exception shall be deemed abandoned if:

2178 a. The use is discontinued for more than 1 year; or

2179 b. The special exception has not obtained a certificate of zoning compliance.
2180

2181 4. The proposed use shall comply with all requirements of the underlying zoning district(s), the
2182 Land Development Code, and all other applicable law.
2183

2184
2185 B. Standards and Criteria. The following standards shall apply to all applications for special exception
2186 uses.
2187

2188
2189 1. Consistency with the Comprehensive Plan?
2190

2191 2. The site must be suitable for the type of special exception use proposed by virtue of its location,
2192 shape, topography, and the nature of surrounding development.
2193

2194 3. All buildings shall be setback an adequate distance from property lines and rights-of-way.
2195 Greater building setbacks may be required when deemed necessary to protect surrounding
2196 properties.
2197

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- 2198 4. Potential adverse impact to surrounding property must be mitigated to the maximum extent
2199 possible.
2200

Section 3.4.5. Vacations of Plats, Easements, and Rights-of-way.

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2202
2203 The purpose and intent of this section is to provide procedures for City Council to vacate rights-of-way,
2204 easements, and plats pursuant to authority granted under Florida law. The City Council may adopt
2205 ordinances vacating plats in whole or in part of subdivisions within the corporate limits of the city,
2206 returning the property covered by such plats either in whole or in part into acreage for the purpose of
2207 taxation, or vacating public rights-of-way, public easements, or other property in response to
2208 applications filed from adjoining property owners.
2209

2210 A. General.

- 2211
2212 1. The city may retain an easement for utilities or drainage over any vacated right-of-way and that
2213 no use may be made of vacated right-of-way which will be inconsistent with or interfere with
2214 the retained easement. The party seeking vacation of a plat, city street, alley, canal, other right-
2215 of-way, public easement, or other property must show or submit the following:

- 2216 a. Petitioner has color of title to the tract or parcel of land covered by the plat or portion of
2217 the plat of which vacation is sought, unless the petitioner is the City of Cape Coral;
2218
2219 b. Letter of approval from Lee County Electric Cooperative, Inc.;;
2220
2221 c. Letter of approval from affected telephone companies;
2222
2223 d. Letter of approval from affected cable companies; and
2224
2225 e. Letter of approval from any other affected utility companies (e.g., water, sewer);
2226
2227

- 2228 2. Applicants requesting to vacate rights-of-way or easements shall provide a recent boundary
2229 survey or survey sketch of the property prepared by a registered surveyor showing the area to
2230 be vacated and provide a complete legal description(s). The survey or sketch shall show all
2231 pavement and all utility and drainage facilities, including water, sewer, cable lines, utility poles,
2232 swales, ditches, manholes, and catch basins. Separate drawings and legal descriptions are
2233 required for each vacation area when right-of-way and easement configurations differ.
2234

2235 B. Standards and Criteria. Applications for vacations shall be reviewed in accordance with the
2236 following criteria:

- 2237
2238 1. Whether the plat, easements, or rights-of-way are required by the City for any future
2239 transportation, access, water management, or public utility purposes.
2240
2241 2. Whether any required easements are necessary to accommodate the vacation of any plat,
2242 easement, or right-of-way.
2243

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- 2244 3. If alternate routes are required or available that do not cause adverse impacts to surrounding
2245 areas.
2246
- 2247 4. If the closure of a right-of-way negatively affects areas utilized for vehicles to turn around and exit
2248 an area.
2249
- 2250 5. Whether local utility providers have given consent to the vacation of the plat, easements, or
2251 rights-of-way. The local utility providers may require additional easements or relocation of
2252 existing utilities facilities to complete the vacation.
2253
- 2254 C. Additional Procedures and Noticing Requirements. In addition to the standard notice requirements
2255 required by this Code, the following additional notice requirements apply for vacations:
2256
- 2257 1. Specific notice requirements for vacations. Public hearing notices to vacate a plat or portion
2258 thereof shall be published once a week for two consecutive weeks, the first publication being
2259 not less than two weeks prior to the date of public hearing on the petition.
2260
- 2261 2. If the parcel to be vacated includes an alley, all property owners serviced by the alley and all
2262 property owners serviced by a connecting alley shall be noticed.
2263
- 2264 3. Adoption and recording of resolution and ordinance. After public hearing, the City Council may
2265 approve an application for a vacation if it determines there is no reasonably foreseeable public
2266 use for the vacated area. Approval of a vacation shall be by resolution or ordinance. The City
2267 may retain easements for utilities or drainage in and upon the vacated area. Upon adoption of
2268 the resolution vacating the plat or portion thereof, the City Clerk shall furnish to the petitioner
2269 a certified copy thereof and the petitioner shall cause the same to be recorded in the public
2270 records of the county and shall return a copy, showing the recording information, to the
2271 Department of Community Development.
2272
- 2273 4. Effect. The adoption and recording of a vacation shall have the effect of vacating all streets and
2274 alleys and city-owned easements shown on the portion of the plat so vacated, unless the
2275 resolution or ordinance specifically reserved unto the city such city-owned easements or such
2276 streets or alleys. If public rights-of-way are vacated, the resolution or ordinance shall specify
2277 whether or not easements are reserved therein for utilities and drainage. The resolution or
2278 ordinance shall not have the effect of vacating any public canal shown on the portion of the plat
2279 vacated, unless the resolution or ordinance specifically so provides.
2280
- 2281 5. Petitioner's responsibility. The city, City Council, and all officers, employees, and agents thereof
2282 shall not assume any responsibility or liability for any matters and things to be done or
2283 completed by the petitioner pursuant to the provisions hereof. It is recognized that this
2284 procedure may affect substantial interests in real property and other proprietary rights, and the
2285 petitioner shall assume full and complete responsibility for compliance with the requirements
2286 of law and these procedures in connection with or arising out of any vacation proceedings
2287 instituted by the petitioner.
2288

Section 3.4.6. Rezones

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- 2290
2291 A. Manner of Initiation. Applications for a change in zoning may be initiated in the following manner:
2292
2293 1. The City Council upon its own motion;
2294
2295 2. The Planning and Zoning Commission upon its own motion;
2296
2297 3. The property owner(s) of at least fifty-one percent of the land in the proposed rezone area;
2298
2299 4. The City Manager for a City initiated rezone; or
2300
2301 5. The Community Development Department, following approval of a similar use determination.
2302
2303 B. Review Criteria. An application for a rezone shall be reviewed in accordance with the following
2304 criteria:
2305
2306 1. Whether the proposed zoning district proposed is consistent with the City Comprehensive Plan;
2307
2308 2. Whether the full range of uses allowed in the proposed zoning district will be compatible with
2309 existing uses in the area under consideration;
2310
2311 3. Whether the range of uses allowed in the proposed zoning district will be compatible with existing
2312 and potential uses in the area under consideration;
2313
2314 4. Whether the proposed zoning district will serve a community need or broader public purpose;
2315
2316 5. The characteristics of the proposed rezone area are suitable for the uses permitted in the
2317 proposed zoning district; and
2318
2319 6. Whether a zoning district other than the district requested will create fewer potential adverse
2320 impacts to existing uses in the surrounding area.
2321
2322 C. Effective date of approval. A rezone shall take effect upon City Council adoption of the ordinance
2323 approving the rezone.
2324
2325 D. New application after denial. No application for a rezone which has been previously denied by the
2326 City Council shall be accepted for at least one year after the date of denial. An application to rezone
2327 property to a designation that is different than the designation which was denied by the City
2328 Council, will be accepted and considered without consideration of time since the previous
2329 application was denied.
2330

Section 3.4.7. Planned Unit Developments (PUD)

- 2331
2332
2333 A. General.
2334

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- 2335 1. A Planned Unit Development (PUD) is an area designed for development as a cohesive unit,
2336 where uses and innovations in design and layout of the development provide public benefits
2337 when compared to standard zoning or uniform lot and block subdivision patterns and design
2338 features.
2339
- 2340 2. In a PUD, the various land use elements are designed so that they interrelate with each other.
2341 The boundary between a PUD and adjacent land area(s) requires particular attention to ensure
2342 transition and that land use patterns are compatible.
2343
- 2344 B. Purpose and Intent. The purpose and intent of a PUD are to:
2345
- 2346 1. Innovation in Design. To encourage innovations in residential, commercial, mixed-use, and
2347 industrial development so that the needs of the population may be met by greater variety in
2348 type, design and layout of buildings and land uses and by the conservation and more efficient
2349 use of the space.
2350
- 2351 2. Appropriate Land Use. To promote the most appropriate use(s) of the land.
2352
- 2353 3. High Quality Development. To improve the design, character, and quality of new development.
2354
- 2355 4. Infrastructure. To facilitate the adequate and efficient provisions of roads and utilities.
2356
- 2357 5. Increased Compatibility. To achieve compatibility with surrounding neighborhoods and
2358 developments.
2359
- 2360 6. Provision of Open Space. To preserve open space as development occurs.
2361
- 2362 7. Clustering of Uses. To provide for necessary commercial, recreational, and public facilities that
2363 are conveniently located to housing.
2364
- 2365 8. Increased Flexibility. To provide for flexibility in design for new development and future
2366 redevelopment.
2367
- 2368 9. Comprehensive Plan. To achieve the goals of the Comprehensive Plan.
2369
- 2370 10. To provide a method for previously approved Planned Development Projects to continue to
2371 develop under the terms of an approved PDP Development Order and to allow modification to
2372 existing PDP approvals under the PUD procedures.
2373
- 2374 C. Minimum Parcel Size. The minimum parcel size for a PUD is:
2375
- 2376 1. Non-residential, mixed use, or multi-family PUD. One acre.
2377
- 2378 2. All other PUDs. Three acres.
2379
- 2380 D. PUD approval steps. The PUD review and approval process includes:

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2425
1. A rezone to the PUD zoning district, which establishes the densities, intensities, and permitted uses within the PUD; and
 2. A Master Concept Plan (MCP), which establishes the design, layout, and dimensional standards of the PUD.
- E. Application and submittal requirements. Application and submittal requirements for a PUD are established in Sections 3.1.4 through 3.1.8 of this Article. In addition, a PUD requires:
1. An application for a rezone to the PUD zoning district; and
 2. A Master Concept Plan application.
 3. Submittal of the specific PUD application requirements listed in subsection G., below.
- A PUD application for parcels 10 acres or larger may apply for a rezone to the PUD zoning district without submitting a MCP for concurrent review and processing.
- F. Preapplication conference required. A pre-application conference shall be held with the Community Development Department prior to the submittal of a PUD. The applicant shall indicate the requested PUD zoning district and a sketch of the PUD Master Concept Plan, if applicable.
- G. Specific PUD Submittal Requirements. A PUD application shall include the following:
1. A Letter of Intent, including:
 - a. Reasons the PUD procedure is more desirable than a conventional plan;
 - b. General site description including acreages; and
 - c. General project description.
 2. A PUD Master Concept Plan indicating:
 - a. Location of the uses within the site;
 - b. Vehicle circulation patterns and points of access;
 - c. Pedestrian and bicycle circulation with links to other external path systems;
 - d. Open space plan; and
 - e. Landscape and buffer plans.

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- 2426 3. Sample formation of HOA or other organization to operate and maintain open space and other
2427 on-site public or private improvements.
2428
- 2429 4. Phasing plan, if applicable.
2430
- 2431 H. PUD Zoning Districts. Each PUD shall be rezoned to one of the following designations, based on
2432 proposed development:
2433
- 2434 RPUD - Residential PUD
2435 CPUD - Commercial PUD
2436 IPUD - Industrial PUD
2437 MXPUD - Mixed Use PUD
2438 PFPUD - Public Facilities PUD
2439
- 2440 The proposed PUD zoning district must meet the criteria for rezones as set forth by this Code.
2441
- 2442 I. Review Standards and Criteria.
2443
- 2444 1. Every PUD shall be in conformance with the City Comprehensive Plan. The maximum density or
2445 intensity within any PUD shall be consistent with the future land use designation of the site as
2446 determined by the Comprehensive Plan.
2447
- 2448 2. Specific uses, densities, and intensities for each PUD are established in the PUD rezone
2449 ordinance. The approved uses, densities, and intensities for a PUD shall take precedence over
2450 other standards and requirements in these regulations. The uses approved in a PUD shall be
2451 permitted uses.
2452
- 2453 3. Specific bulk, area, and dimensional standards for each PUD are approved in the MCP for a PUD
2454 and shall take precedence over the standards and requirements in these regulations for
2455 development that is not within an approved PUD. Elements to be evaluated for a PUD shall
2456 include:
2457
- 2458 a. Appropriateness of the proposed or density or intensity of the development;
2459
- 2460 b. Internal and external compatibility of the development and surrounding uses;
2461
- 2462 c. Transition and separation between surrounding uses;
2463
- 2464 d. Vehicular and pedestrian circulation patterns;
2465
- 2466 e. Arrangement and functionality of open space;
2467
- 2468 f. Access points;
2469
- 2470 g. Public amenities, if applicable;
2471

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- 2472 h. Additional amenities that will serve the project; and
2473
2474 i. Details and design of internal and external buffers.
2475
2476 4. Open Space.
2477
2478 a. For all PUDs except for IPUDs, a minimum of twenty-five percent of the total land area shall
2479 consist of common open space. The City may consider a request by the applicant for less
2480 than twenty-five percent common open space when deemed appropriate because of size,
2481 location, or nature of the proposed development.
2482
2483 b. The amenities or off-site improvements shall be utilized by the City or developed by the
2484 applicant to mitigate the reduction of open space or to fulfill the recreational needs of the
2485 City.
2486
2487 c. Areas that Do Not Count as Open Space. Parking and loading areas, streets, and rights-of-way
2488 shall not count toward usable open space.
2489
2490 d. Areas that Count as Open Space. Water bodies, surface water retention areas, preservation
2491 areas, and riparian areas that are preserved as open space shall count towards this minimum
2492 standard, even when they are not usable by or accessible to the residents of the PUD. All
2493 other open space shall be conveniently accessible from all occupied structures in the PUD.
2494
2495 e. Improvements Required. All common open space and recreational facilities shall be shown
2496 on the PUD Plan and shall be constructed and fully improved according to the development
2497 schedule established for each development phase of the PUD.
2498
2499 f. Landscaping along Sidewalks. All sidewalks within a PUD must be shaded by canopy trees.
2500 The area used for shading the sidewalks can be considered as part of the minimum open
2501 space requirement.
2502
2503 g. Maintenance of Open Space. All open space shall continue to conform to its intended use,
2504 as specified on the PUD Master Concept Plan. To ensure that public open space identified in
2505 the PUD will be used as open space, restrictions, easements, or covenants shall be recorded
2506 in deeds or the open space areas may be dedicated to the public to ensure their
2507 maintenance and to prohibit the division of any public open space. Any subdivision of land
2508 will require a Property Owners Association (POA) or Home Owners Association (HOA) to
2509 ensure that open spaces within a PUD are maintained. The City is not required to accept
2510 dedication of open space areas.
2511
2512 5. PUD Perimeter Buffers. The boundary between a PUD and adjacent land uses shall be
2513 landscaped with a buffer that has sufficient width and shall include screening to ensure a proper
2514 transition and increase compatibility between land uses. The buffer shall be approved by City
2515 Council.
2516

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- 2517 6. Street Standards. All streets, roads, and drive aisles shall be designed and constructed in
2518 conformance with the City’s Engineering and Design Standards.
2519
- 2520 7. Phasing. When a PUD is developed in phases, a proportional amount of the open space and
2521 recreations areas shall be included in each phase, in order to comply with the open space
2522 requirements of this chapter at the completion of each phase of the development.
2523
- 2524 J. Master Concept Plan and concurrent Preliminary Subdivision Plan review. The approved Master
2525 Concept Plan may be used for Preliminary Subdivision Plan approval, as defined in Article 10,
2526 provided required details and information for PSP review are included in the MCP.
2527
- 2528 K. Amendments to Planned Unit Developments.
2529
- 2530 1. Administrative Amendments. Amendments to an approved PUD may be approved
2531 administratively if they meet the following criteria:
2532
- 2533 a. Density or intensity is increased by less than ten percent.
 - 2534 b. Open space is not decreased by more than five percent.
 - 2535 c. There are no changes to any condition of approval.
 - 2536 d. There is no change in permitted uses or types of structures.
 - 2537 e. Dimensional standards are changed by no more than ten percent.
 - 2538
 - 2539
 - 2540
 - 2541
 - 2542
- 2543 2. Review Standards for amendments. An approved PUD Master Concept Plan may be amended if
2544 the applicant demonstrates that the proposed modification:
2545
- 2546 a. Is consistent with the efficient development and preservation of the entire PUD;
 - 2547 b. Does not affect in a substantially adverse manner either the enjoyment of the land abutting
2548 upon, adjoining or across a street from the planned unit development;
 - 2549 c. Is not granted solely to confer a special benefit upon any person;
 - 2550
 - 2551 d. Does not contain proposed uses that detract from other uses approved in the PUD;
 - 2552
 - 2553 e. Does not contain an open space plan that differs substantially in quantity or quality from the
2554 originally approved plan; and
2555
 - 2556 f. Contains streets and utilities that are coordinated with planned and existing street and
2557 utilities for the remainder of the PUD.
 - 2558
 - 2559
- 2560 3. Amendments that require City Council Approval. Any amendment to a PUD that does not meet
2561 the criteria in subsection 1 through 2, above must be approved by the City Council.
2562

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- 2563
2564 L. Effect of PUD approvals.
2565
2566 1. PUD zoning. A rezone to a PUD zoning district shall run with the land.
2567
2568 2. Master Concept Plans. A MCP shall be valid for any time period established in the conditions of
2569 approval for the MCP. If a specific time period is not specified then the MCP shall run with the
2570 land.
2571 OR
2572 3. If a Site Development Plan, a building permit for vertical construction, or a subdivision plat has
2573 not been approved within 10 years, the Master Concept Plan shall be null and void, unless an
2574 extension has been approved by City Council.
2575
2576 M. Extensions. A PUD may receive one extension that is valid for two years. Upon expiration of the
2577 extension, the Master Concept Plan shall be null and void.
2578

CHAPTER 5. SPECIFIC REVIEW PROCEDURES - LEGISLATIVE APPROVALS

Section 3.5.1. Annexations

- 2583 A. Purpose of Annexations. Annexations shall be considered for the following reasons:
2584
2585 1. The annexation implements the Comprehensive Plan.
2586
2587 2. The annexation increases the City's inventory of non-residential lands.
2588
2589 3. The annexation results in the removal of enclaves.
2590
2591 4. The annexation results in the logical extension of City boundaries.
2592
2593 B. Manner of Initiation. Applications to annex property in to the City may be initiated in the following
2594 manner:
2595
2596 1. The City Council; or
2597
2598 2. By a petition of one or more owners of property within an area proposed for annexation.
2599
2600 C. Review Criteria. Proposed annexations shall be reviewed in accordance with the requirements of
2601 Chapter 171, Florida Statutes.
2602
2603 D. Effective date of approval: The effective date of an annexation will take place in accordance with
2604 Chapter 171, Florida Statutes.
2605

Section 3.5.2. Future Land Use Map Amendments

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- 2608 A. Purpose of Amendments. Future Land Use Map amendments shall be considered for the following
2609 reasons:
2610
- 2611 1. The amendment implements the goals, objectives, and policies of the Comprehensive Plan.
2612
 - 2613 2. The amendment promotes compliance with changes to other city, state, or federal regulations.
2614
 - 2615 3. The amendment results in compatible land uses within the a specific area.
2616
 - 2617 4. The amendment implements findings of reports, studies, or other documentation regarding
2618 functional requirements, contemporary planning practices, environmental requirements, or
2619 similar technical assessments.
2620
 - 2621 5. The amendment is consistent with the City's ability to provide adequate public facilities and
2622 services.
2623
 - 2624 6. The amendment prepares the City for future growth, such as reflecting changing development
2625 patterns, identifying demands for community services, reflecting changes necessary to
2626 accommodate current and planned growth in population, and facilitating community
2627 infrastructure and public services.
2628
- 2629 B. Manner of Initiation. Applications for a Future Land Use Map Amendment (FLUMA) may be initiated
2630 in the following manner:
2631
- 2632 1. The City Council by its own motion;
2633
 - 2634 2. The Planning and Zoning Commission by its own motion;
2635
 - 2636 3. The City Manager for City initiated requests; or
2637
 - 2638 4. By a petition of one or more property owners of at least 51% of the property owners of an area
2639 proposed for amendment.
2640
- 2641 C. Review Criteria. Proposed future land use map amendments shall be reviewed in accordance with the
2642 requirements of Chapter 163, Florida Statutes, and the following criteria:
2643
- 2644 1. Whether the proposed future land use amendment is consistent with the goals, policies, and
2645 future land use designations of the City Comprehensive Plan;
2646
 - 2647 2. The amendment protects the health, safety, and welfare of the community;
2648
 - 2649 3. The proposed amendment and all of the consistent zoning districts, and the underlying permitted
2650 uses, are compatible with the physical and environmental features of the site;
2651
 - 2652 4. The range of zoning districts and all of the allowed uses in those districts are compatible with
2653 surrounding uses in terms of land suitability or density and that a change will not result in negative

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2654 impacts on the community or traffic that cannot be mitigated through application of the
2655 development standards in this Code;

2656
2657 5. The site is capable of accommodating all of the allowed uses, whether by right or otherwise,
2658 considering existing or planned infrastructure for roads, sanitary and water supply systems,
2659 stormwater, parks, etc.; and

2660
2661 6. Other factors deemed appropriate by the Commission and City Council.

2662
2663 D. Effective date of approval. The effective date of a future land use map amendment shall be in
2664 accordance with Chapter 163, Florida Statutes.

2665
2666 **Section 3.5.3. Comprehensive Plan Text Amendments**

2667
2668 A. Purpose of Amendments. Comprehensive Plan text amendments shall be considered for the following
2669 reasons:

2670
2671 1. The amendment clarifies the intent of the Comprehensive Plan.

2672
2673 2. The amendment corrects an error in the Comprehensive Plan.

2674
2675 3. The amendment addresses changes to state legislation, recent case law, or opinions from the
2676 Attorney General of the State of Florida.

2677
2678 4. The amendment implements the Comprehensive Plan.

2679
2680 5. The amendment promotes compliance with changes to other city, state, or federal regulations.

2681
2682 6. The amendment results in compatible land uses within the future land use designation.

2683
2684 7. The amendment implements findings of reports, studies, or other documentation regarding
2685 functional requirements, contemporary planning practices, environmental requirements, or
2686 similar technical assessments.

2687
2688 8. The amendment promotes the City's ability to provide adequate public facilities and services.

2689
2690 B. Manner of Initiation. Comprehensive Plan Text Amendments may be initiated in the following
2691 manner:

2692
2693 1. The City Council;

2694
2695 2. The Planning and Zoning Commission; or

2696
2697 3. The City Manager for City initiated requests.

2698

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- 2699 C. Review Criteria. Proposed comprehensive plan text amendments shall be reviewed in accordance with
2700 the requirements of Florida Statutes, Chapter 163, and the following criteria:
2701
2702 1. The amendment is consistent with the goals and policies of the City Comprehensive Plan;
2703
2704 2. The amendment protects the health, safety, and welfare of the community; or
2705
2706 3. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.
2707
2708 D. Effective date of approval. The effective date of a comprehensive plan text amendment shall be in
2709 accordance with Chapter 163, Florida Statutes.
2710

2711 **Section 3.5.4. Land Development Code Text Amendments**
2712

- 2713 A. Purpose of Amendments. Land Development Code (LDC) text amendments shall be considered for
2714 the following reasons:
2715
2716 1. The amendment clarifies the intent of the LDC.
2717
2718 2. The amendment corrects an error in the LDC.
2719
2720 3. The amendment addresses changes to state legislation, recent case law, or opinions from the
2721 Attorney General of the State of Florida.
2722
2723 4. The amendment implements the LDC or Comprehensive Plan.
2724
2725 5. The amendment promotes compliance with changes to other city, state, or federal regulations.
2726
2727 6. The amendment adds district uses that are consistent with the character of the current range of
2728 allowed uses.
2729
2730 7. The amendment results in providing compatible land uses within Cape Coral.
2731
2732 8. The amendment implements findings of reports, studies, or other documentation regarding
2733 functional requirements, contemporary planning practices, environmental requirements, or
2734 similar technical assessments.
2735
2736 B. Manner of Initiation. Applications for a LDC text amendment may be initiated in the following
2737 manner:
2738
2739 1. The City Council by its own motion;
2740
2741 2. The Planning and Zoning Commission by its own motion; or
2742
2743 3. The City Manager for City initiated requests, including text amendments associated with a similar
2744 use determination.

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- C. Review Criteria. Proposed LDC text amendments shall be reviewed in accordance with the following criteria:
 - 1. Whether the proposed LDC text amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan;
 - 2. The amendment results in compatible land uses within a zoning designation;
 - 3. The amendment protects the health, safety, and welfare of the community; or
 - 4. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.
- D. Effective date of approval. The effective date of a LDC text amendment shall take place upon adoption.

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CHAPTER 1. DEVELOPMENT REVIEW PROCEDURES

- Section 3.1.1.** Purpose
- Section 3.1.2.** Classification of Development Review Procedures
- Section 3.1.3.** Development Approval Process; Table 3.1.3
- Section 3.1.4.** Application submittals
- Section 3.1.5.** Pre-application meetings
- Section 3.1.6.** Fee Required
- Section 3.1.7.** Complete Applications Required
- Section 3.1.8.** Review for Sufficiency and Code Requirements
- Section 3.1.9.** Decision- making
- Section 3.1.10.** Public Hearing Scheduling and Notice Requirements
- Section 3.1.11.** Public Hearing Procedures
- Section 3.1.12.** Decisions under this Article
- Section 3.1.13.** Conditions on Approvals
- Section 3.1.14.** Appeals

CHAPTER 2. GENERAL REVIEW PROCEDURES

- Section 3.2.1.** All Permits and Approvals

CHAPTER 3. SPECIFIC REVIEW PROCEDURES- ADMINISTRATIVE PERMITS AND APPROVALS

- Section 3.3.1.** Zoning Verification Letter of Flood Verification Letter
- Section 3.3.2.** Certificate of Zoning Compliance
- Section 3.3.3.** Administrative Interpretations and Similar Use Determinations
- Section 3.3.4.** Lots Splits and Lot Combines
- Section 3.3.5.** Conditional Uses
- Section 3.3.6.** Administrative Deviations
- Section 3.3.7.** Site Development and Subdivision Construction Plans
- Section 3.3.8.** Site Development Permits
- Section 3.3.9.** Temporary Use Permits
- Section 3.3.10.** Temporary Storage
- Section 3.3.11.** Seasonal Sales
- Section 3.3.12.** Construction Trailers
- Section 3.3.13.** Construction staging areas and post disaster debris staging
- Section 3.3.14.** Temporary sales offices
- Section 3.3.15.** Temporary Habitable structures
- Section 3.3.16.** Special Events
- Preliminary Subdivision Plans** (See Article 10)

CHAPTER 4. SPECIFIC REVIEW PROCEDURES – QUASI-JUDICIAL PERMITS AND APPROVALS

- Section 3.4.1.** General Requirements
- Section 3.4.2.** Deviations
- Section 3.4.3.** Variances

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- 47 **Section 3.4.4.** Special Exceptions
- 48 **Section 3.4.5.** Vacations of Plats, Easements, and Rights-of-way
- 49 **Section 3.4.6.** Rezones
- 50 **Section 3.4.7.** Planned Unit Developments (PUD)

51

52 **CHAPTER 5. SPECIFIC REVIEW PROCEDURES – LEGISLATIVE APPROVALS**

53

- 54 **Section 3.5.1.** Annexations
- 55 **Section 3.5.2.** Future Land Use Map Amendments
- 56 **Section 3.5.3.** Comprehensive Plan Text Amendments
- 57 **Section 3.5.4.** Land Development Code Text Amendments
- 58 **Plats** (See Article 10)

59

60 **CHAPTER 1. DEVELOPMENT REVIEW PROCEDURES**

61

62 **Section 3.1.1. Purpose.**

63

64 The purpose of this article is to establish the standards and procedures for review and approval of
65 proposed development within the City of Cape Coral, and to provide a development review process that
66 will be comprehensive, consistent, and efficient in the implementation of the goals, objectives, and
67 policies of the City of Cape Coral Comprehensive Plan and this Code.

68

69 **Section 3.1.2. Classification of Development Review Procedures**

70

71 All development applications under this Article are subject to the procedural review requirements in this
72 Chapter, unless otherwise exempted by the terms of this Article. Development applications are classified
73 according to the decision-making authority for each type of application, as set forth below.

74

75 A. Administrative. The following shall be treated as administrative decisions:

76

- 77 1. Zoning and Flood Zone Verification Letters
- 78 2. Certificates of Zoning Compliance
- 79 3. Administrative Interpretations and Similar Use Determinations
- 80 4. Sign Permits (See Article 6)
- 81 5. Lot Splits and Lot Combines
- 82 6. Conditional Uses
- 83 7. Master Concept Plan (PUD) Amendments
- 84 8. Administrative Deviations
- 85 9. Site Development and Subdivision Construction Plans
- 86 10. Preliminary Subdivision Plans (See Article 10)
- 87 11. Site Improvement Permits
- 88 12. Temporary Use Permits
 - 89 a. Special Events
 - 90 b. Temporary Storage
 - 91 c. Seasonal Sales
 - 92 d. Construction Trailers

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- 93 e. Construction Staging Areas and Post Disaster Staging
- 94 f. Temporary Sales Offices
- 95 g. Temporary Retail Sales

96 13. Reasonable Accommodations (See Article 13)

97

98 B. Quasi-judicial. The following shall be treated as quasi-judicial decisions:

99

- 100 1. Deviations (other than Administrative Deviations)
- 101 2. Variances
- 102 3. Special Exceptions
- 103 4. Vacations of Plats, Easements, and Rights-of-way
- 104 5. Rezones
- 105 6. Planned Unit Developments (PUDs) and Master Concept Plans
- 106 7. Appeals

107

108 C. Legislative. The following shall be treated as legislative decisions:

109

- 110 1. Annexations
- 111 2. Future Land Use Map Amendments
- 112 3. Comprehensive Plan Text Amendments
- 113 4. Land Development Code Text Amendments
- 114 5. Plats

115

116 D. Certain buildings, structures, improvements, and installations are exempted by the Florida Building Code
117 from building permit issuance, but must otherwise comply with the minimum requirements of this chapter.
118 Therefore, such buildings, structures, improvements, and installations shall be subject to review under the
119 Site Development Plan or Certificate of Zoning Compliance standards contained in this Article, as well as the
120 regulations of the underlying zoning district.

121

122 E. The Community Development Director shall have the authority to require a certificate of zoning compliance
123 or site improvement permit review for other buildings, structures, improvements and installations that are
124 newly created or come about by changes in the state or local building codes; or other improvements
125 deemed necessary for approval.

126

127 **Section 3.1.3. Development Approval Process; Table 3.1.3**

128

129 Table 3.1.3 shows the development review process, the decision-making authority for each type of
130 development approval; and the appeal authority for each type of decision.

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TABLE 3.1.3 DEVELOPMENT APPROVAL AND REQUIRED NOTICE							
Decision Maker				Notice			
D	Director	Recommendation	Decision Maker	Published	Mailed	Posted	
HEX	Hearing Examiner						
LPA	Planning and Zoning Commission / Local Planning Agency						
CC	City Council						
SC	Superior Court						
Application Type							
Administrative	Zoning or Flood Zone Verification Letters		D				
	Certificate of Zoning Compliance		D				
	Administrative Interpretations & Similar Use Determinations		D				
	Sign Permits		D				
	Lot Splits and Lot Combines		D				
	Conditional Uses		D				
	PUD Amendments - Minor		D				
	Administrative Deviations		D				
	Site Development and Subdivision Construction Plans		D				
	Preliminary Subdivision Plans		D				
	Site Improvements Permits		D				
	Temporary Use Permits		D				
	Temporary Habitable Structures		D				
	Business Tax Receipts		D				
	Reasonable Accommodations (see Article 13)		D				
Appeals of Administrative Decisions	D	HEX	CC	SC	✓		
Quasi-Judicial	Deviations (Other than Administrative Deviations)	D	HEX		✓	✓	✓
	Variances	D	HEX		✓	✓	✓
	Special Exceptions	D	HEX		✓	✓	✓
	Vacations – Easement/Lot/Plat	HEX	CC		✓	✓	✓
	Rezoning	HEX	CC		✓	✓	✓
	PUDs	HEX	CC		✓	✓	✓
	PUD Amendments - Major	D	HEX		✓	✓	✓
Appeals of Quasi-Judicial Decisions	D	HEX	SC		✓	✓	✓
Legislative	Annexations	D	CC		✓	✓	✓
	Future Land Use Map Amendments	LPA	CC		✓	✓	✓
	Comp Plan Text Amendments	LPA	CC		✓		
	LDC Text Amendments	LPA	CC		✓		
	Final Plats	D	CC		✓		

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Section 3.1.4. Application submittals.

- A. Unless otherwise indicated by a specific provision of this Article, the applicant for a permit or approval under this Code must be the owner of the property that is the subject of the application or a duly authorized agent of the owner. An applicant who is a contract purchaser must provide proof that the applicant is an authorized agent of the property owner.

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- 144 1. For rezone and comprehensive plan amendments involving multiple properties or ownerships,
145 the owners of at least fifty-one percent of the number of parcels or the land area included in the
146 application, whichever is greater, must join in the application.
147
- 148 2. For applications to vacate public rights-of-way or alleys, the owners of all parcels abutting the
149 street or alley or portion thereof to be vacated must join in the application.
150
- 151 3. For applications to vacate easements, all owners of parcels abutting the easement and all owners
152 entitled to use of the easement to be vacated must join in the application.
153
- 154 4. For applications to vacate any portion of a platted subdivision, all owners in the subdivision must
155 join in the application.
156
- 157 B. Unless otherwise indicated by a specific provision of this Article or another City ordinance or
158 regulation, applications for permits and approvals under this Chapter shall be submitted to the
159 Community Development Department.
160
- 161 C. Applications shall contain all information required for the type of application being filed and shall
162 include all plans, data, studies, or supporting documents required under this code or specified in the
163 application forms.
164
- 165 D. The Community Development Department shall establish application forms and submittal
166 requirements for all development applications referenced in this Article.
167
- 168 E. Applications for various approvals and permits may be submitted for concurrent or simultaneous
169 review at the option and sole risk of the applicant. This provision shall not apply to any comprehensive
170 plan amendments, rezones, or permit approvals associated with a proposed annexation into the City.
171
- 172 F. Applications for permits or development approvals which have been made available as on-line may
173 be required to file an on-line application only, as determined by the Director.
174
- 175 G. The Community Development Director shall have the authority to require a zoning or site improvement
176 permit review for other buildings, structures, improvements, or installations that are newly created or
177 come about by changes in the state or local building codes; or other improvements deemed necessary for
178 approval.
179

180
181
182
183 **Section 3.1.5. Pre-application, Preliminary Design Review, and Neighborhood meetings.**
184

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- 185 A. Upon request of an applicant, the director may schedule pre-application meetings with applicants and
186 appropriate City staff, for the purpose of reviewing proposed development prior to the formal
187 submission of an application. Applicants are encouraged, though not required, to request a pre-
188 application meeting. A pre-application meeting is required for Planned Unit Development
189 applications.
190
- 191 B. The pre-application meeting shall be informal, and its purpose shall be to discuss the proposals, views,
192 and concepts of the applicant. The purpose is also to discuss whether any additional information will
193 be required. Failure of staff to identify any required permits or procedures at a pre-application
194 meeting shall not relieve the applicant of any such requirements in this code or constitute waiver of
195 the requirement by the decision-making body.
196
- 197 C. At the pre-application meeting staff will:
198
- 199 1. Review the proposed project and any preliminary plans with the applicant.
 - 200
 - 201 2. Discuss and inform the applicant about the zoning requirements relevant to the proposal,
202 information necessary for an application, and the approval process(es) for the project. This does
203 not preclude the department from requesting additional information or waiving certain
204 requirements for information later during the review process.
205
 - 206 3. Advise the applicant whether the proposed project conforms to the Comprehensive Plan or the
207 requirements of this title.
208
- 209 D. Preliminary Design Review Advisory Meetings. Upon request of an applicant, the director may
210 schedule a preliminary design review advisory meeting with applicants and appropriate City staff, for
211 the purpose of reviewing the design and engineering requirements for a proposed development
212 project prior to the formal submission of an application. Applicants are encouraged, though not
213 required, to request a preliminary design review advisory meeting. The substance and process of a
214 preliminary design review advisory meeting shall follow the requirements of pre-application meetings
215 detailed in subsections B and C, above.
216
- 217 E. Any recommendations or determinations reached during a pre-application or preliminary design
218 review advisory meetings are purely advisory and shall not be binding either on the applicant or the
219 City.
220
- 221 F. Applicants are encouraged, though not required, to hold a neighborhood meeting to advise nearby
222 residents of upcoming development applications. The City will provide a list of surrounding property
223 owners for applicants to notify when a neighborhood meeting is scheduled.
224

Section 3.1.6. Fees Required.

Each applicant for a permit, approval, or appeal under this Article shall be required to pay any application fee(s) as established by the City Council.

Section 3.1.7. Complete Applications Required.

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- A. Incomplete Applications. No application for a permit, approval, or appeal under this Article shall be accepted or reviewed by staff that does include all required application materials and the required application fee(s). The burden of providing complete and accurate information required by the Community Development Department for each type of application shall be on the applicant.

- B. Determination of Completeness.
 - 1. When an application for development approval is submitted, the director shall make a threshold determination as to whether the application is complete and in conformance with the land uses, density, and intensity allowed by the future land use designation and zoning district classification.
 - 2. All applications shall be reviewed for completeness within ten days of receipt. If the application does not meet the requirements of this Article, the director shall notify the applicant or agent in writing, stating the additional information required or the modification(s) necessary for conformance.
 - 3. No further action shall be taken on the application unless and until the additional information is submitted and determined to be complete by the director. If the incompleteness has not been remedied within sixty (60) calendar days of receipt of notice thereof, the application shall be automatically voided and the director shall return the application to the applicant.

- C. Review. When an application for development approval is determined to be complete, the department shall notify the applicant, and commence detailed review and processing of the application in accordance with this Code.

Section 3.1.8. Review for Sufficiency and Code Requirements.

Once an application is determined to be complete, the Department shall commence detailed review of the application, consult with other agencies, issue comments to the applicant, consult with the applicant as necessary, and determine whether the application and supporting materials are sufficient to proceed forward, as applicable for the type of application for review. For purposes of this section, "sufficiency" shall constitute an analysis of whether a proposed application:

- A. Meets the stated objective requirements of the comprehensive plan, this Code, and the City Code of Ordinances; and
- B. Includes the necessary analysis and information in sufficient detail to enable the decision-making body or official to make the necessary determinations under the comprehensive plan and this Code.
- C. The sufficiency and code requirements set forth herein shall be used by the City to evaluate the demands created on public services and facilities by a proposed development, as required by this code. The following public services and facilities shall be evaluated:
 - 1. Drainage facilities;

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- 277 2. Environmentally sensitive lands;
278
279 3. Fire protection;
280
281 4. Parks and open space;
282
283 5. Police protection;
284
285 6. Potable water;
286
287 7. Wastewater;
288
289 8. Solid waste;
290
291 9. Stormwater; and
292
293 10. Transportation facilities. A traffic impact study is required for any development anticipated to
294 generate more than 300 p.m. peak hour average daily trips.
295
296 D. If an application is determined to be insufficient, the director shall notify the applicant or agent in
297 writing, stating the additional information required or the modification(s) necessary for conformance.
298
299 E. No further action shall be taken on an application determined to be insufficient unless and until the
300 insufficiency(ies) are resolved, as determined by the director. If the insufficiencies have not been
301 remedied within sixty (60) calendar days, the director may void the application.
302

Section 3.1.9. Decision-making.

- 303
304
305 A. Administrative approvals. Upon determining that an application and all supporting information are
306 sufficient to render a decision, the Director shall take administrative action required by this code and
307 approve the application, approve the application with conditions, or deny the application.
308
309 B. Quasi-judicial and legislative approvals. Upon determining that an application and all supporting
310 information are sufficient to render a decision and any inadequacies have been resolved, the Director
311 shall prepare a report and recommendation to the appropriate decision-making or recommending
312 body.
313

Section 3.1.10. Public Hearing Scheduling and Notice Requirements.

- 314
315
316 A. Scheduling for consideration. When an application is deemed sufficient pursuant to LDC Section 3.1.8,
317 the Director shall schedule a public hearing for an appropriate date. No application shall be scheduled
318 for consideration by the Hearing Examiner, Commission, or City Council until either:
319
320 1. All specified insufficiencies have been resolved; or
321

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- 322 2. The applicant has elected in writing to proceed notwithstanding the unresolved insufficiencies.
323
- 324 B. Required notice of public hearings. Notice of public hearings shall be provided by publication of an
325 advertisement in a newspaper of general circulation, mailed notice to surrounding property owners,
326 and posting of the development site pursuant to the requirements of this section. Table 3.1.2 depicts
327 the public hearing notice requirements for quasi-judicial and legislative applications under this Code:
328
- 329 C. Website posting. Notices of public hearings for development applications shall be posted on the City
330 of Cape Coral website but failure to post a case on the City website shall not constitute a violation of
331 City noticing requirements. In addition, information about public notice and public hearings may be
332 posted by the City on social media outlets.
333
- 334 D. Publication. Publication of advertisements for public hearings concerning comprehensive plan
335 amendments shall meet the requirements of Chapter 163, Florida Statutes. Publications for public
336 hearings concerning zoning amendments shall meet the requirements of Chapter 166 Florida
337 Statutes.
338
- 339 E. Posting. The application site shall be posted with a notice of the public hearing on a sign provided by
340 the Community Development Department at least ten (10) calendar days in advance of any public
341 hearing. The number and placement of public notice signs should be determined by the Department.
342 The signs shall be removed by the City after a final decision. The failure to remove posted notice after
343 a final decision shall not be deemed a failure to comply with this requirement or be grounds to
344 challenge the validity of any final decision on the application(s).
345
- 346 F. Mailed notice. Notice of a public hearing on a proposed development application(s) shall be mailed
347 to all owners of real property within five hundred (500) feet of the periphery of the site in question,
348 whose names and addresses are known by reference to the latest published ad valorem tax records
349 of the Lee County Property Appraiser.
350
- 351 1. Individually owned multi-family units. When real property consists of individually owned multi-
352 family units, notice shall be given to the homeowner's association, if applicable, all individual unit
353 owners, and all real property owners within five hundred (500) feet. If any area adjacent to the
354 development site is owned by the applicant or any partner listed on the application, the five
355 hundred (500) foot notification boundary shall be extended from these parcels. All property
356 owner associations in the notice area shall be notified.
357
- 358 2. Notice to other jurisdictions. If there are unincorporated lands within 500 feet of the property,
359 Lee County shall also be notified.
360
- 361 3. Applicant responsibility for notice. When the notice radius specified in this section includes
362 property outside of the City limits, the applicant is responsible for obtaining the list of property
363 owners to be notified from the Lee or Charlotte County Property Appraisers and providing this list
364 to the department in sufficient time to comply with noticing requirements. The applicant is
365 responsible for any errors or omissions in the list provided.
366
- 367 4. Content. Generally, all public hearing notices shall contain the following information:

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- 368
- 369 a. The scheduled date, time, and location of the hearing;
- 370
- 371 b. A general description of the nature of the matter to be addressed, written in layman's terms;
- 372
- 373 c. The address of the property;
- 374
- 375 d. That persons may appear and be heard;
- 376
- 377 e. That written comments filed with the department will be entered into the record;
- 378
- 379 f. That the hearing may be continued from time to time as necessary;
- 380
- 381 g. A telephone number and contact for more information;
- 382
- 383 h. The case number or title of the ordinance under consideration, if applicable; and
- 384
- 385 i. Such additional information as may be required pursuant to this code or applicable law for
- 386 specific types of development approval.
- 387
- 388 5. Timing of mailed notice. Notice shall be mailed a minimum ten (10) calendar days prior to the
- 389 date set for the public hearing by first class mail. A copy of the notice shall be available for public
- 390 inspection during regular business hours at the Community Development Department. If the
- 391 application includes a simultaneous future land use map amendment and a rezone, the notice for
- 392 the rezone may be included in the notice required for the land use amendment.
- 393
- 394 G. Electronic Notice. The Community Development Department may, as a courtesy, send electronic
- 395 notice to any persons or organizations in the City, or to any governmental, public, or quasi-public
- 396 organization regarding any matter that may affect the interests of that person or organization, or on
- 397 any matter on which any such person or organization has requested notice. The failure of the
- 398 Department to send such notice or the failure of any resident or property owner to receive such
- 399 courtesy notice shall not affect the validity of the public notice requirements.
- 400
- 401 H. Exceptions to Mailing and Posting. The mailing and posting notice requirements shall not apply to a
- 402 land use map amendment initiated by the Council, in response to a judicial order or compliance
- 403 agreement as described by Section 163.3184(6) and (7), Florida Statutes.
- 404
- 405 I. Continued or Rescheduled Meetings. Notice of subsequent hearings shall be mailed and published in
- 406 accordance with this section for:
- 407
- 408 1. Any hearing for which the Hearing Examiner, Community Development Director, or City Attorney
- 409 determines new notice should be provided, because of the time elapsed from the original notice,
- 410 to correct any defect, or apprise affected parties of significant changes to the application as
- 411 originally noticed;
- 412
- 413 2. Any hearing continued to an unspecified date, time, and place; or

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- 414
415 3. Any hearing where such new notice is required pursuant to applicable law or this Code.
416

417 **Section 3.1.11 Public Hearing Procedures.**
418

- 419 A. General. All public hearings shall be open to the public. Members of the public shall be permitted to
420 testify at all public hearings. A copy of the hearing procedures shall be made available at the hearing.
421 The applicant may withdraw an application by requesting such withdrawal in writing prior to the
422 commencement of the hearing.
423
- 424 B. Record of hearings. The City Clerk shall attend all hearings, and the City shall record (audio, video, or
425 both) all hearings. The City shall retain the original recording(s) in accordance with the laws of the
426 State of Florida, and, if requested, provide a duplicate of the recording(s).
427
- 428 C. Official file. All written communication received by the decision-making body, the Hearing Examiner,
429 or staff concerning an application, the staff report on the application, any petitions or other
430 submissions from the public, and all other documents pertaining to the application shall be filed in
431 the official file for the application, which shall be maintained by staff. The Comprehensive Plan, the
432 City Code of Ordinances, and the Land Development Code shall be deemed to be part of the official
433 file. The official file shall be available for inspection during normal business hours.
434
- 435 D. Order of public hearings. The hearing shall, to the extent possible, be conducted as follows:
436
- 437 1. The Clerk shall read into the record the ordinance or resolution title and number, or the
438 applicant's name, file number, and the subject matter to be decided if there is no ordinance or
439 resolution.
440
 - 441 2. For quasi-judicial hearings, the applicant, staff, and all participants requesting to speak or present
442 evidence or both at the hearing shall be collectively sworn by an oath or affirmation by the Clerk.
443
 - 444 3. The applicant may waive the applicant's right to an evidentiary hearing if applicant agrees with
445 the staff recommendation and no one from the audience wishes to speak for or against the
446 application. The decision-making body may then vote on the item or the Hearing Examiner shall
447 rule on the matter or make a recommendation, based upon the staff report and any other
448 materials contained within the official file. Regardless of a waiver by the applicant, a public
449 hearing shall be held for all decisions requiring an ordinance or resolution.
450
 - 451 4. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the
452 Hearing Examiner or Mayor determines to proceed in a different order, taking proper
453 consideration of fairness and due process:
454
 - 455 a. The applicant shall make the applicant's presentation, including offering any documentary
456 evidence, and introduce any witnesses as applicant desires. The applicant shall present the
457 applicant's entire case in 30 minutes.
458
 - 459 b. Staff shall present a brief synopsis of the application; introduce any appropriate additional

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- 460 exhibits from the official file that have not already been transmitted to the Hearing Examiner
461 or City Council with the agenda materials, summarize issues; and make a recommendation on
462 the application. Staff shall also introduce any witnesses that it wishes to provide testimony at
463 the hearing. Staff shall present its entire case in 30 minutes.
464
- 465 c. Public comment. Participants in opposition to or support of the application shall make their
466 presentation in any order as determined by the Chair, Hearing Examiner, or Mayor. Each
467 participant shall present their argument in five minutes.
468
- 469 d. For hearings on quasi-judicial matters only, the applicant may cross-examine any witness and
470 respond to any testimony presented.
471
- 472 e. For hearings on quasi-judicial matters only, staff may cross-examine any witness and respond
473 to any testimony presented.
474
- 475 f. The Chair, Hearing Examiner, or Mayor may choose to allow participants to respond to any
476 testimony if the Chair, Hearing Examiner, or Mayor deems the response to be necessary to
477 ensure fairness and due process.
478
- 479 g. Members of the Planning and Zoning Commission, Hearing Examiner, or City Council may ask
480 any questions of the staff, applicant, and participants.
481
- 482 h. Final argument may be made by the applicant, related solely to the evidence in the record.
483
- 484 i. Final argument may be made by the staff, related solely to the evidence in the record.
485
- 486 j. For good cause shown, the Planning and Zoning Commission, Hearing Examiner, or City
487 Council may grant additional time to any of the above time limitations.
488
- 489 k. The Chair, Hearing Examiner, or Mayor shall keep order, and without requiring an objection,
490 may direct a party conducting the direct examination or the cross-examination to stop a
491 particular line of questioning that, in the sole judgment of the Chair, Hearing Examiner, or
492 Mayor merely harasses, intimidates, or embarrasses the individual testifying or being cross-
493 examined; is unduly repetitious or is not relevant; or is beyond the scope of the application
494 or, in the case of cross-examination, is beyond the scope of the testimony by the individual
495 being cross-examined. If the party conducting the direct examination or cross-examination
496 continues to violate directions from the Chair, Hearing Examiner, or Mayor to end a line of
497 questioning deemed improper as set forth herein, the Chair, Hearing Examiner, or Mayor may
498 terminate the direct examination or the cross-examination.
499
- 500 l. The Planning and Zoning Commission, Hearing Examiner, or City Council may, on its own
501 motion or at the request of any person, continue the hearing to a fixed date, time, and place.
502 The applicant shall have the right to one continuance; however, all subsequent continuances
503 shall be granted at the sole discretion of the Commission, Hearing Examiner, or City Council.
504
- 505 E. Decisions. For all quasi-judicial hearings in which a decision is made regarding an application for any

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506 development permit, the decision to approve or deny shall be based on whether the application
507 meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the
508 Land Development Code, based on the entirety of the record before the Hearing Examiner or City
509 Council. The Hearing Examiner or Council decisions must be based upon competent substantial
510 evidence in the record.

511
512 F. Rules of Evidence for quasi-judicial hearings.

- 513
514 1. The decision-making body or the Hearing Examiner shall not be bound by the strict rules of
515 evidence, and shall not be limited only to consideration of evidence which would be admissible in
516 a court of law. The decision-making body or the Hearing Examiner shall have the ability, but not
517 the duty, to conduct site visits in their sole discretion and to consider any evidence so adduced in
518 their deliberations.
519
520 2. The Chair or Hearing Examiner may exclude evidence or testimony that is not relevant, material,
521 or competent or testimony which is unduly repetitious or defamatory.
522
523 3. The Chair, with the advice of the City Attorney, will determine the relevancy of evidence. In
524 matters decided by the Hearing Examiner, the Hearing Examiner, without the advice of the City
525 Attorney, will determine the relevancy of evidence.
526
527 4. Matters relating to an application's consistency with the Comprehensive Plan, the City Code of
528 Ordinances, or the Land Development Code will be presumed to be relevant and material.
529
530 5. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence,
531 but it shall not be sufficient by itself to support a finding unless it would be admissible over
532 objection in court.
533
534 6. Documentary evidence may be presented in the form of a copy of the original, if available. A copy
535 shall be made available to the decision-making body or the Hearing Examiner and to the staff no
536 later than two business days prior to the hearing on the application. Upon request, the applicant
537 and staff shall be given an opportunity to compare the copy with the original. Oversized exhibits
538 shall be copied and reduced for convenient record storage.
539
540 7. Only the applicant, an authorized representative of the applicant, staff, and the decision-making
541 body or the Hearing Examiner shall be entitled to conduct cross-examination when testimony is
542 given or documents are made part of the record.
543
544 8. The City Attorney shall represent the decision-making body and advise it as to procedures to be
545 followed.
546
547 9. The Planning and Zoning Commission, Hearing Examiner, or City Council shall take judicial notice
548 of all state and local laws, ordinances, and regulations and may take judicial notice of such other
549 matters as are generally recognized by the courts of the State of Florida.
550
551 10. Supplementing the record after the quasi-judicial hearing is prohibited, unless specifically

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- 552 authorized by an affirmative vote of the decision-making body, or authorized by the Hearing
553 Examiner, under the following conditions:
554
- 555 a. The supplementation occurs after a quasi-judicial hearing is continued but prior to final action
556 being taken on the application or appeal.
557
 - 558 b. If a question is raised by the Planning and Zoning Commission, Hearing Examiner, or City
559 Council at the hearing which cannot be answered at the hearing, the party to whom the
560 question is directed will submit the requested information in writing to the City Clerk and the
561 decision-making body or Hearing Examiner after the quasi-judicial hearing, with copies to the
562 other parties, provided the hearing has been continued or another hearing has been
563 scheduled for a future date and no final action has been taken by the decision-making body
564 or Hearing Examiner. The information requested will be presented to the decision-making
565 body or the Hearing Examiner at least two business days prior to the time of the continued
566 hearing.
567
 - 568 c. All parties and participants shall have the same right with respect to the additional
569 information as they had for evidence presented at the hearing.
570
- 571 G. Final decision. The City Council or the Hearing Examiner shall reach a written decision without
572 unreasonable or unnecessary delay. The Hearing Examiner shall provide a copy of the decision to the
573 City Clerk for transmission to the applicant, if the applicant is not the City, to the Director of the
574 Department of Community Development, and the City Attorney.
575
- 576 H. The Record. All evidence admitted into the record at the hearing, the official file, and the adopted
577 development order, ordinance, or resolution of the City Council or the written decision of the Hearing
578 Examiner shall be maintained by the City Clerk or the Department of Community Development.
579
- 580 I. Adjournment. The Chairperson, upon a vote of the majority present, or Hearing Examiner, as
581 applicable, may adjourn a hearing to a date certain without the necessity of additional notice.
582 Adjournment to an uncertain date shall require notice as required for the original hearing and by the
583 Land Development Code.
584
- 585 J. Deferrals. If a hearing is concluded, but action is deferred until a future date, formal notice shall not
586 be required prior to action being taken.
587
- 588 K. Joint hearings. Where deemed necessary, joint hearings may be conducted after proper public notice.
589 In such instances, public notice need only be given by one public body, which shall be the City Council
590 in instances where it is one of the hearing bodies.
591
- 592 L. Regularly scheduled public hearing dates. The Hearing Examiner or the City Council may establish
593 regular dates for public hearings on zoning amendments. Such dates, if established by the Hearing
594 Examiner, or the City Council, shall not prevent the Hearing Examiner or City Council from scheduling
595 additional public hearings whenever such public hearings are deemed necessary.
596
- 597 M. Reading of ordinances. Except for ordinances initiated by the City Council which rezone a parcel or

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598 parcels of land involving ten or more contiguous acres, or change permitted, special exception, or
599 prohibited use categories in zoning districts, all ordinances shall be read, either by title or in full, on
600 two separate days at a duly noticed public hearing of the City Council.

601

602 N. The printed agenda for the meeting at which the quasi-judicial hearing is scheduled to take place shall
603 identify the hearing as quasi-judicial and indicate where copies of the procedures that apply may be
604 obtained.

605

606 **Section 3.1.12. Decisions under this Article.**

607

608 A. When this Article authorizes the Community Development Director, Hearing Examiner, or City Council
609 to make decisions under this Chapter, that decision shall be made pursuant to the specific criteria
610 applicable to the application in Chapter 2 (Specific Review Procedures). If Chapter 2 does not include
611 specific criteria for that type of decision, the Community Development Director or Department,
612 Hearing Examiner, Commission, or Council shall make the decision based on whether the application
613 complies with this Article and any regulations authorized by this Code, and will protect the public
614 health, safety, and welfare.

615

616 B. Unless otherwise indicated in a specific provision of this Article, the Community Development
617 Director, Hearing Examiner, or City Council may approve the application, deny the application, or
618 approve the application subject to conditions as stated in Section 3.1.13, below.

619

620 C. Unless otherwise stated in this Article, or unless a different condition is attached to a permit or
621 approval, permits and approvals granted under this Article are not affected by changes in ownership
622 or tenancy of the property.

623

624 **Section 3.1.13. Conditions on Approvals.**

625

626 A. The Community Development Director, Hearing Examiner, or City Council may attach conditions to
627 any quasi-judicial permit or approval under this Chapter, provided the condition is required to bring
628 the development proposed in the application into compliance with the requirements of the
629 Comprehensive Plan or the LDC.

630

631 B. The Community Development Director, Hearing Examiner, or City Council may also attach conditions
632 to any quasi-judicial development permit or approval under this Code, provided the condition is
633 necessary to minimize or ameliorate potential adverse impacts of the development proposal. Such
634 conditions shall be reasonably related to the actual or potential impact(s) of the specific use, activity,
635 or structure in question.

636

637 **Section 3.1.14. Appeals.**

638

639 A. Review by the Director. Applicants for administrative permits and approvals may request a formal
640 review by the Community Development Director of staff decisions, within thirty (30) calendar days of
641 the date the administrative decision was made. The request for review shall be accompanied by any
642 relevant documents related to the review as determined by the Planning Manager or Development
643 Services Manager. The respective manager shall review the relevant standards and present a written

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644 finding to the Community Development Director. The request for review shall be considered by the
645 Community Development Director within 10 days of submittal of a complete request. The Community
646 Development Director may consult with the City Attorney’s office on the matter.

647
648 The Community Development Director shall provide a written determination to affirm the staff
649 decision, grant the relief requested in the review, with or without conditions, or respond to the
650 applicant or respective manager for further information, documentation, or proceedings. The written
651 determination by the Director shall be the final administrative decision.

652
653 B. Appeals of Community Development Director decisions ([Administrative Appeal](#)). An applicant desiring
654 to appeal a decision of the Community Development Director, shall, within ten (10) calendar days
655 from the date of such decision, file a written Notice of Appeal with the Department of Community
656 Development. The appeal shall then be heard by the Hearing Examiner at a regularly scheduled
657 meeting, provided there is sufficient time to review the appeal and provide the required public notice.
658 A staff or Director’s recommendation is not a decision and is not appealable.

659
660 C. Appeals from decisions of the Hearing Examiner [on Administrative Appeals](#). Any aggrieved party by a
661 decision of the Hearing Examiner on a ~~quasi-judicial matter or a Hearing Examiner decision on an~~
662 administrative appeal may file an appeal to the City Council within 30 days by filing a written Notice
663 of Appeal with the City Clerk. All such appeals shall be based on the record.

664
665 D. [Appeals from decisions of the Hearing Examiner on Quasi-judicial matters. Any aggrieved party by a](#)
666 [decision of the Hearing Examiner on a quasi-judicial matter may file an appeal to Circuit Court,](#)
667 [provided same is done in the manner and within the time provided by Florida Rules of Appellate](#)
668 [Procedure.](#)

669
670 ~~E.~~E. Appeals from decisions of the City Council. An action to review any decision of the City Council under
671 these regulations may be taken by any person or persons aggrieved by such decision by presenting to
672 the Circuit Court a petition for issuance of a Writ of Certiorari, duly certified, setting forth that such
673 decision is illegal, in whole or in part, certifying the grounds of the illegality, provided same is done in
674 the manner and within the time provided by Florida Rules of Appellate Procedure.

675
676 ~~D.~~F. Stay of proceedings. An appeal shall stay all proceedings in the matter appealed from until the final
677 disposition of the appeal by the City Council or Hearing Examiner. The pendency of an appeal shall toll
678 all time periods applicable to the decision which is subject to appeal until final disposition of the
679 appeal by the City Council or Hearing Examiner with regard to the appeal.

680
681 ~~E.~~G. Record. The record to be considered in the appeal shall include any application, exhibits, appeal
682 papers, written objections, waivers, or consents considered by staff, the Hearing Examiner, or City
683 Council, as well as transcripts and recordings taken at a public hearing, the Hearing Examiner or City
684 Council minutes, and resolutions or ordinances showing the decision or action being appealed. The
685 record shall also include the record made as a result of any prior applications for development
686 approval on the same property. The City Clerk shall identify all exhibits used at the hearing. All exhibits
687 so identified or introduced shall be a part of the City record.

688

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689 **CHAPTER 2. GENERAL REVIEW PROCEDURES**

690
691 **Section 3.2.1. All Permits and Approvals.**

- 692
693 A. General Requirements for all permit applications.
- 694
- 695 1. Applications for permits or approvals shall be submitted with forms supplied by the Department
696 and any required supporting documentation, plans, or materials required by this Code or specified
697 in the application form(s).
- 698
- 699 2. Applications shall include any required fee(s) as established by the City Council.
- 700
- 701 3. Incomplete applications will not be accepted.
- 702
- 703 4. Before any use of land, building, or structure is established or any established use of land, building,
704 or structure is changed to a different use than that identified in the previously-issued certificate of
705 use under the prior LUDR, a certificate of zoning compliance under this code, or a business tax receipt
706 for the property, the person seeking to establish the use must obtain a certificate of zoning
707 compliance. Failure to secure a certificate of zoning compliance before establishing a use of land,
708 building, or structure or before changing the use of the property from the use recognized in a duly-
709 issued certificate of use under the prior LUDR or a certificate of zoning compliance under this Code
710 to another use, shall be a violation of this Code, and punishable as such.
- 711
- 712 B. Withdrawal of applications. An applicant may withdraw an application at any time by submitting a
713 letter of request to DCD or providing testimony of the requested withdrawal in a public hearing.
- 714
- 715 C. Effective date. All permits shall take effect on the day the permit is issued or an approval granted.
- 716
- 717 D. Reliance on permits during pendency of appeals. Any action(s) taken by a permittee during the
718 pendency of an administrative or quasi-judicial appeal shall be at the sole risk of the permittee.
- 719

720 **CHAPTER 3. SPECIFIC REVIEW PROCEDURES - ADMINISTRATIVE PERMITS AND APPROVALS**

721
722 **Section 3.3.1. Zoning Verification Letter or Flood Verification Letter.**

- 723
- 724 A. Purpose and Intent.
- 725
- 726 1. Zoning Verification Letter. To provide an official determination of the zoning of specific property
- 727
- 728 2. Flood Zone Verification Letter. To provide an official determination of the FEMA Flood zone, as
- 729 shown on the Flood Insurance Rate Map (FIRM) for specific property.
- 730
- 731 B. Review Criteria.
- 732
- 733 1. The Department will review the applicable City records, maps, and any supporting information
- 734 and issue a Zoning or Flood Zone verification letter.

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- 735
736 2. Verification letters are valid for the date upon which they are issued and may be subject to
737 change.
738

739 **Section 3.3.2. Certificate of Zoning Compliance.**

740
741 A. Purpose and Intent.

- 742
743 1. To determine whether a proposed activity or use is permitted in the zoning district of the property
744 in question, prior to application for a building or site development permit.
745
746 2. To determine whether all structures and site development requirements (e.g., building setbacks,
747 parking requirements, etc.) are in compliance with the requirements of this Code prior to
748 application for or review of a building or site development permit.
749
750 3. Miscellaneous certificates of zoning compliance. The Community Development Director is authorized
751 to approve, approve with conditions, or deny a certificate of zoning compliance for the following
752 buildings, structures, improvements and installations:
753
754 a. Above ground pools that contain water over 24 inches deep;
755
756 b. Agricultural or farm buildings and non-habitable structures on A, Agriculture zoned sites;
757
758 c. Canopy carports, canopies, and other fabric covered framework on residential properties;
759
760 d. Chickee huts constructed by Miccosukee or Seminole Indians;
761
762 e. Chain-link fences, picket fences, ornamental iron fences, and other fences installed on residential
763 property that are deemed non-wind resistant; provided, however, any pool safety barrier fence
764 and any fence with concrete columns shall require a building permit;
765
766 f. Decorative reflective pools and fishponds that contain water less than 24 inches deep, that contain
767 less than 250 square feet in area, and contain less than 2,250 gallons in volume;
768
769 g. Decorative garden-type water fountains and other similar hardscape features;
770
771 h. Portable mini-storage unit, subject to the conditions and limitations of contained in Article 5;
772
773 i. Donation bins, recycling bins, mobile medical, and professional units in accordance with Article 5;
774 and
775
776 j. Anchoring, mooring, docking, or storage of a houseboat.
777

778 C. Review Criteria.
779

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- 780 1. To determine whether the proposed use is a permitted use, a conditional use, or a special
781 exception under this code.
782
- 783 2. Submittals will be reviewed for compliance with applicable code requirements (e.g., parking,
784 setbacks, conditional use criteria, conditions of approval, etc.)
785
- 786 D. Specific Requirements for Certificates of Zoning Compliance.
787
- 788 1. Posting required. The original certificate of zoning compliance shall be posted in a conspicuous
789 location accessible to the public on the business premises at all times.
790
- 791 2. Revocation. The Community Development Director shall notify the holder of any certificate of zoning
792 compliance, in writing, of the City’s intent to revoke a certificate of zoning compliance for any of the
793 following reasons:
794
- 795 a. The City has reasonable grounds to believe that the premises are being used in a manner that is
796 inconsistent with, or contrary to, the provisions of the City Code or any other applicable code or
797 statute.
798
- 799 b. In the event of a conviction of any owner, operator, manager, supervisor, or any employee acting
800 at the direction or with the knowledge of the owner, operator, manager, or supervisor, by a court
801 of competent jurisdiction, for the violation of any criminal statute committed in conjunction with
802 the business operation.
803
- 804 c. It has been ascertained that the holder of the certificate of zoning compliance falsified
805 information on the application for the certificate of zoning compliance.
806
- 807 d. The holder of the certificate of zoning compliance, or the designated manager, operator, or
808 supervisor, refuses to permit an authorized law enforcement officer or code enforcement officer
809 to inspect the premises during normal business hours for the purpose of investigating a
810 complaint which has been filed against the business operation.
811
- 812 E. Notice of revocation. When a notice of revocation is issued it shall state the following:
813
- 814 THE HOLDER OF THE CERTIFICATE OF ZONING COMPLIANCE SHALL HAVE TEN (10) DAYS FROM THE
815 DATE OF THIS NOTIFICATION TO EITHER BRING THE PREMISES INTO COMPLIANCE OR TO REQUEST A
816 HEARING, IN WRITING, BEFORE THE SPECIAL MAGISTRATE.
817
- 818 IF THE VIOLATION IS NOT CURED OR IF NO WRITTEN REQUEST FOR A HEARING IS RECEIVED BY THE CITY
819 OF CAPE CORAL WITHIN TEN (10) DAYS OF THE DATE OF THIS NOTIFICATION BY THE CERTIFICATE
820 HOLDER, THE CERTIFICATE OF ZONING COMPLIANCE SHALL BE CONSIDERED REVOKED.
821
- 822 F. Stay pending hearing. If the holder of the certificate of zoning compliance requests a hearing before the
823 City Council, the certificate of zoning compliance shall remain in effect during the pendency of the action
824 before the City Council.
825

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Section 3.3.3. Administrative Interpretations and Similar Use Determinations.

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- A. Purpose and Intent.
 - 1. To determine whether a proposed use, activity, or site design complies with comprehensive plan.
 - 2. To interpret specific comprehensive plan policies.
 - 3. To interpret whether a proposed use, activity, or site “design” complies with the LDC.
 - 4. To determine how specific code requirements may apply to a site or a development proposal when application of such requirements is not explicitly set forth in the LDC.
 - 5. To interpret the application of conditions of approval.
 - 6. To determine whether a proposed use that is not otherwise classified as a permitted, permitted with special regulations, conditional, or special exception use in a zoning district or is not currently defined in this code may classified as a similar use.
- B. Review Criteria.
 - 1. To determine whether a proposed use activity or site design complies with specific provisions of the comprehensive plan and is in keeping with the spirit and intent of the comprehensive plan.
 - 2. Consistency with LDC.
 - 3. Whether the proposed use or activity complies with DCD policies and procedures.
- C. Similar Use Determinations.
 - 1. Interpretation of Similar Uses. Notwithstanding the requirements of Section 4.4.D., the Director may determine that a specific proposed use may be allowed as a permitted, permitted with specific regulations, conditional, or special exception use in a specific zoning district(s).
 - 2. Similar Use Determination Process.
 - a. A similar use determination may be issued if all of the following findings can be made:
 - i. The characteristics and activities associated with the proposed use are similar to those of one or more of the allowed uses listed in the zoning district and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, or similar impacts than the uses listed in the zoning district;
 - ii. The proposed use will meet the purpose and intent of the zoning district that applies to the location of the use;
 - iii. The proposed use is consistent with the goals, objectives, and policies of the Comprehensive Plan; and

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- 872 iv. The proposed use is not listed a permitted, permitted with specific regulations,
873 conditional, or special exception use in another zoning district.
874
875 b. If a similar use determination is approved, the Director shall establish whether the use shall
876 be a permitted use, permitted with specific regulations, a conditional use, or special
877 exception use.
878
879 c. Upon approval of a similar use determination, the department shall prepare a text
880 amendment to this ordinance to include the use in the appropriate district, along with any
881 appropriate use regulations.
882

Section 3.3.4. Lots Splits and Lot Combines.

A. Purpose and Intent.

- 886
887 1. To provide standards for the split and combination of lots and tax parcels along existing platted
888 lot or parcel lines.
889
890 2. To provide standards for the split and combination of lots or tax parcels that do not require a
891 replat.
892
893 3. To provide for a one time split of property when the lot split or combine does not require approval
894 as a new subdivision plat or replat.
895
896 4. This section shall not apply to unrecorded subdivisions.
897

B. General Requirements

- 898
899
900 1. All divisions of land in the City shall occur only as a new subdivision plat, a replat, or a lot split.
901 The requirements for subdivisions and replats are set forth in Article 10 of this Code. A lot split
902 that does not meet the requirements of this chapter is deemed a subdivision or a replat and shall
903 be defined and processed as set forth in Article 10.
904
905 2. No lot split shall be recognized by the City, no lot that is part of a lot split shall be sold, and no
906 building permit shall be issued unless the lot split has been approved by the City prior to recording
907 in accordance with the requirements of this Article.
908

C. Review Criteria and Standards

- 909
910
911 1. Whether the lot split or combine creates nonconforming lots and structures.
912
913 2. The lot split or combine shall not cause marine improvements to become nonconforming for
914 setbacks or any other standards regarding such structures.
915
916 3. Ensure that the lot split or combine does not create split zoning on a parcel.
917

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- 918 4. The newly configured lots parcels must have at least twenty-five feet (25') of frontage on an
919 existing right-of-way, private road, canal, lake, basin, or river. The minimum lot width of the
920 zoning district must be met when measured at the front or rear setback, where applicable.
921
- 922 5. The newly created parcels shall not result in private utility lines crossing property lines.
923
- 924 6. A survey sketch prepared by a professional surveyor and mapper (PSM) indicating the legal
925 description of the parent parcel, boundaries, dimensions, easements, restrictions or agreements
926 affecting the property, rights-of-way, utilities, location of existing buildings, and other pertinent
927 information including wetland boundaries and location of specimen and historic trees. The survey
928 shall be required to be signed, sealed, dated, and certified to the City.
929
- 930 7. Approval and recording. The Community Development Department shall review the proposed lot
931 split for compliance with the criteria listed in this subsection and Article 10, Subdivisions. Once
932 approved the applicant may proceed with the lot split and record the lot split with the Lee County
933 Property Appraiser. Approval shall expire within one (1) year of issuance if not recorded.
934

Section 3.3.5. Conditional Uses.

- 936
- 937 A. Purpose and Intent.
938
- 939 1. To provide standards and criteria for review and approval of specified conditional uses for a
940 specific site.
941
- 942 2. To provide reasonable limitations or special conditions for conditional uses, in order to address,
943 minimize, or ameliorate potential impacts of the use on surrounding property and for the
944 protection of the public health, safety, and welfare.
945
- 946 B. General Requirements. Proposed conditional uses must meet the following requirements:
947
- 948 1. The conditional use standards identified in Article 5 for the specific zoning district use and
949 conditional use in question.
950
- 951 2. The proposed conditional use will not result in development that is inconsistent with the intended
952 character of the applicable zoning district.
953
- 954 3. A listed conditional use that does not meet the applicable conditional use standards may apply
955 for approval as a Special Exception.
956
- 957 C. Review Criteria. A Conditional Use may be approved by the Director based on criteria identified in
958 Article 5. These criteria are specific to each conditional use.
959

Section 3.3.6. Administrative Deviations.

- 960
- 961
- 962 A. Purpose and Intent. To grant relief from strict application of LDC requirements to allow minor
963 deviations.

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- B. Scope. Administrative Deviations may be granted for the following:
 - 1. Setback requirements where the setback is not decreased by more than 10% in the applicable zoning district and the encroachment does not extend into an easement, right-of-way, or is an encroachment over the property line for a zero-lot line site.
 - 2. Reduction in the overall required parking by 5%.
 - 3. Landscaping or buffers. Up to a 10 % reduction in the width of required buffers or the required number of trees and shrubs.
 - 4. Preservation of Vegetation. A deviation from the following regulations to accommodate the preservation of existing native specimen tree(s):
 - a. Up to five (5) percent of a required setback; or
 - b. Up to five (5) percent of the required parking spaces.
 - 5. Minor sign deviations as set forth in Article 6 of this code.
 - 6. Maximum lot coverage of impervious surfaces. Up to a 10% increase in the maximum percentage of lot coverage by impervious surfaces, provided the applicant submits calculations by a Florida Registered Professional Engineer showing that the conveyance system for the contributing drainage basin can accommodate the additional stormwater run-off from greater than 60% impervious. A property owner may also add retention storage on-site to compensate for the additional runoff in situations where they propose to exceed 60% impervious surfaces. All such calculations and drainage plans must be approved by the City Public Works Department prior to issuance of any building permits.
- C. Review Criteria. An Administrative Deviation may be approved based on the following criteria:
 - 1. The proposed deviation will not result in development that is inconsistent with the intended character of the applicable zoning district.
 - 2. The normally required code standard(s) is determined to significantly inhibit development of the site.
 - 3. The deviation will not impede the ability of the project or site to adequately provide for service areas and other development features for the project.
 - 4. Access for service and emergency vehicles will not be impeded.
 - 5. The proposed deviations will result in a building and site design of equal or superior quality.
- D. Effective date of approval. A deviation shall take effect upon approval.

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1010
1011 E. If an Administrative Deviation is not approved, the applicant may subsequently apply for a Variance.
1012

1013 **Section 3.3.7. Site Development and Subdivision Construction Plans.**
1014

1015 A. Applicability. The procedures contained in this Section are applicable to all projects involving land
1016 development, including Site Development Plans (SDP) for individual sites, Subdivision Construction
1017 Plans (SCP), and sites without structures such as parking lots. Also included are projects which involve
1018 the construction of any facility, the expansion of a site through acquisition or lease, alteration or
1019 conversion of an existing site or structures, or the change of use of a site or structure where the site or
1020 structure does not meet the current standards or criteria of these regulations. The provisions of this
1021 Section, where appropriate, are to be applied to on-site and off-site development activity. No land
1022 development activity shall commence without obtaining the appropriate approvals and permits
1023 required by this code.
1024

1025 B. Exceptions. The requirements of this section do not apply to:
1026

- 1027 1. Single-family dwellings; or
1028
1029 2. Duplex dwellings on existing platted lots or parcels.
1030

1031 C. Plan Preparation. A professional engineer registered in the state of Florida shall design all required
1032 improvements such as streets, drainage systems, water and sewage facilities, etc. All plans, drawings,
1033 reports, and calculations shall be prepared, signed, and sealed by the appropriate licensed
1034 professional, such as engineers, architects, landscape architects, professional surveyors and mappers,
1035 or attorneys, registered in the state of Florida. Other specialized consultants, such as environmental
1036 consultants, structural engineers, archaeologists, etc., may be required to assist in the preparation of
1037 the plans, drawings, reports, or other documents required for application submittals.
1038

1039 D. Review Process. The application review and approval process follows the administrative review
1040 procedure as established in Sections 3.1.4 through 3.1.8 of this Article.
1041

1042 E. Criteria. The Development Services Manager may approve, approve with conditions, or deny the
1043 application, after consideration and review of the following:
1044

- 1045 1. The development, as proposed, conforms to the comprehensive plan and is consistent with the
1046 recommendations of any applicable PUD Master Concept Plan, Preliminary Subdivision Plan, or
1047 master plans which have been approved or accepted by the City Council;
1048
1049 2. The proposed development plans, landscape plans, engineering plans, lighting plans, and other
1050 required plans conform or will conform with all applicable City codes, the Engineering Design
1051 Standards, and design standards as set forth in this code;
1052
1053 3. The development will efficiently use or not unduly burden drainage, water, sewer, solid waste
1054 disposal, education, recreation, or other necessary public facilities which have been constructed
1055 or planned and budgeted for construction in the area;

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4. The development provides sufficient on-site storm water management improvements to meet state water quality and flood protection standards;
 5. The development will efficiently use or not unduly burden or affect public transportation facilities, including mass transit, public streets, roads, and highways which have been planned and budgeted for construction in the area, and if the development is or will be accessible by private or public roads, streets, or highways; and
 6. The development provides necessary and adequate vehicular circulation, pedestrian access, ingress and egress, and is configured in a manner to minimize hazards and impacts on adjacent properties and adjacent rights-of-way.
 7. Projects subject to SDP review comprised of 2 or more parcels with unique strap numbers must be combined into a single parcel with one strap number prior to issuance of the Site Development Permit.
 8. Projects subject to SDP review required to provide easements shall provide executed copies of staff approved easements to the City prior to issuance of the Site Development Permit. The City may require such easements be accepted by City Council and recorded in the public records prior to issuance of the Site Development Permit.
 9. Projects that involve a vacation of plat or release of easement may have review or approval withheld until such vacation or release of easement has been approved or recorded, as determined by the Director.
 10. The City may attach any reasonable conditions, safeguards, limitations, or requirements to the approval of a plan which are found necessary and consistent with the review to effectuate the purpose of this section and to carry out the purpose of this Code and the Comprehensive Plan.
- F. Plats. If the development is a subdivision, a plat meeting the requirements of F.S. Ch. 177, Part 1 and the City of Cape Coral Technical Requirements for Plat Approval, which are hereby incorporated by reference, must be submitted prior to approval of Subdivision Construction Plans. The preliminary plat submittal is not required until after the first round of SCP sufficiency comments, though it may be submitted earlier. Refer to Article 10 Subdivisions.
- G. Plan Approval. Upon successfully addressing departmental comments, the Development Services Manger shall approve the application provided all departmental reviewers have accepted the plans or accepted the plans with conditions. Upon receiving plan approval and meeting any applicable conditions, the issuance of a permit shall be authorization for the applicant to begin those construction activities specifically covered by the plan approval. Construction activities shall not occur before all applicable state and federal permits have also been obtained.
- H. Effect of Plan Approval. Site Development Plans and Subdivision Construction Plans are valid for two years from the date of approval. If a development permit to construct the improvements has not been obtained prior to the expiration date, the approval expires and becomes null and void. An

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1102 applicant may apply for a one-year extension for good cause. Such an extension may be granted for
1103 any plan approved after the effective date of this ordinance and two years prior to adoption. The
1104 extension request must be filed prior to the expiration date of plan approval. If the project is within a
1105 PDP, a PUD, or a phased development, the expiration of plan approvals may differ, as established in
1106 the original approval. See Phased Projects Section 3.3.7.T for addition information regarding expiration
1107 of permits and plan approvals in phased projects.

1108
1109 I. Engineer’s Opinions of Probable Construction Costs. The City shall review and approve all cost
1110 opinions prior to acceptance of same.

1111
1112 1. Inspection fees applied to development permits are based on a percentage of the estimated
1113 construction cost, of Developer installed improvement, to be turned over to the City for ownership
1114 and maintenance.

1115
1116 2. Opinions of Probable Construction Costs shall be prepared, signed, and sealed by the professional
1117 engineer of record.

1118
1119 3. Cost opinions shall be a unit quantity itemized estimate of the required improvements including:
1120 mobilization, material and other testing, survey stake out, and a 10% contingency. Lump sums are
1121 only to be used for items typically not contracted as unit price items.

1122
1123 4. Subdivisions. Cost opinions for subdivision improvements are to be provided as required in Article
1124 10 of this code. The cost of improvements required to support a subdivision that will be turned
1125 over to the City for ownership and maintenance will be utilized in determining inspection fees for
1126 the subdivision infrastructure permit. Cost opinions for assuring the completion of subdivision
1127 improvements shall include, in addition to the items listed above, the cost of providing electrical
1128 service for lift stations, pump stations, or other components that may require electric service to
1129 function and setting PCP’s. upon completion of construction.

1130
1131 J. Amendments. Plan amendments include changes to projects which impact multiple aspects of the
1132 development, may affect multiple plans, and will require multiple departmental reviews to evaluate
1133 the proposed amendment to the plan(s).

1134
1135 1. The amendment process may not be used to substantively modify the scheme of development as
1136 originally approved under an approved SDP or SCP.

1137
1138 2. Proposed amendments that impact a PDP or PUD approval criteria or conditions must receive
1139 approval of an amendment to the PDP or PUD prior to receiving SDP or SCP approval.

1140
1141 3. Amendments may apply to projects that are currently under review, projects under construction
1142 or phased projects that have yet to be completed.

1143
1144 4. The applicant shall submit a letter of intent, the applicable fee, the amended plan(s) and any other
1145 documentation required to review the proposed amendment.

1146

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- 1147 5. The Development Services Manger shall determine if the proposed changes to the plan can be
1148 processed as an amendment, qualify for a lesser review process or requires a greater review
1149 process.
1150
- 1151 K. Revisions. Revisions to an approved plan while under construction which do not increase the gross
1152 square footage of a building or adversely impact compliance with the approved plan, and would not
1153 alter the required infrastructure and improvements necessary to serve the project, may be approved
1154 in writing by the Development Services Manager provided such revisions fully conform to all existing
1155 City regulations. The Development Services Manager will determine if the revision requires an
1156 approved plan revision or if the revision can be shown on the Record Drawings.
1157
- 1158 L. Limited Review. A Limited SDP Review for a new improvement or alteration of existing improvements
1159 to an approved project may be requested. Limited Reviews are for proposed improvements which do
1160 not substantially affect projects minimum technical requirements of this Code or do not require a
1161 review by three or more of the following review disciplines: zoning, planning transportation, drainage,
1162 fire, utilities and landscaping. Changes that exceed the criteria for the scope of a Limited SDP review
1163 as specified in this subsection or, as determined by the Development Services Manager, may be
1164 processed as an amendment or a full SDP review in accordance with this section. Applications
1165 reviewed under this process will be reviewed for compliance with the following general criteria:
1166
- 1167 1. The development must have no significant adverse effect upon surrounding land uses;
 - 1168
 - 1169 2. The development must have no significant adverse effect upon public facilities in the area;
 - 1170
 - 1171 3. The development must not adversely affect the environmental quality of the area; and
 - 1172
 - 1173 4. The development proposal must be consistent with the City Comprehensive Plan.
 - 1174
- 1175 M. Site Improvement Permit. A permit review of minor changes to an existing development which does
1176 not require a separate Site Development Plan review. This permit may be utilized when the existing
1177 project is in full compliance with an approved plan or the site proposed for a minor change meets the
1178 following criteria: Any changes to an approved Site Plan project or SDP will not increase density,
1179 parking requirements, water or sewer usage, or enlarge a structure for human occupancy or assembly
1180 by more than 5% of the existing approved plan. For sites lawfully developed without Site Plan review,
1181 the 5% exception may be applied if the applicant submits all of the information required under SDP
1182 review. Determination of the 5% shall be cumulative based on the originally approved development.
1183
- 1184 1. All infrastructure exists on the site to service the site;
 - 1185
 - 1186 2. Engineering is not required for the proposed change;
 - 1187
 - 1188 3. Parking meets all parking code requirements;
 - 1189
 - 1190 4. The improvement does not significantly alter the traffic circulation system or significantly change
1191 the use of property;
 - 1192

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1193 5. The existing project is in compliance with an approved landscape plan or the code in effect at the
1194 time of the original construction; and

1195
1196 6. The existing project meets all storm water management requirements.
1197

1198 **Section 3.3.8 Site Development Permits.**
1199

1200 A. The Development Services Manager shall be authorized to approve, approve with conditions, or deny
1201 a site development permit for the following improvements and installations:
1202

1203 1. Site Development;

1204
1205 2. Subdivision Infrastructure;

1206
1207 3. Site Improvements;

1208
1209 4. Landscaping;

1210
1211 5. Full Demolition;

1212
1213 6. Parking lot seal coating or re-striping of existing parking lots;

1214
1215 7. Underground Fire Lines;

1216
1217 8. Utility Service Relocations;

1218
1219 9. Land Clearing and Fill;

1220
1221 10. Relocation of Residential Storm Drains;

1222
1223 11. Backflow Prevention; and

1224
1225 12. Spot Dredging.
1226

1227 B. Review. The Development Services Manger shall act upon applications for site development permits
1228 within 10 calendar days from the date of their submission.
1229

1230 C. Issuance of Permits.
1231

1232 1. All permits will be issued in compliance with the approved plans, if applicable, and may contain relevant
1233 conditions of the associated plan approval.
1234

1235 2. If the proposed construction or alteration conforms with all applicable provisions of this Code and
1236 all other applicable law, the Development Services Manager shall issue a development permit
1237 authorizing such construction or alteration.
1238

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- 1239 3. If the proposed construction or alteration fails to conform, he shall refuse to issue the permit and
1240 shall deliver written notice to the applicant stating the reason for the refusal.
1241
- 1242 D. Effect of Approval, Expiration, and Extensions. A site development permit shall expire six months from
1243 the date of issuance unless the permitted improvements are under construction and have passed a
1244 required inspection within the 90 days prior to the expiration of the permit. Erosion control
1245 inspections will not extend the expiration date. A permit may be extended for an additional 90 days.
1246 Failure to either pass a required inspection or request a permit extension within the 90-day period
1247 provided will result in expiration of the permit. Thereafter, a new permit will be required to
1248 continue construction.
1249
- 1250 E. Commencement of Construction. After approval of the plans, the applicant may construct the required
1251 improvements, subject to obtaining all required permits. The Development Services Manager shall be
1252 notified in advance of the date of commencement of such construction and the applicant shall
1253 schedule a preconstruction meeting where representatives of the developer, the City, contractors,
1254 and franchise utilities shall discuss the construction of the planned improvements. No work shall take
1255 place prior to the preconstruction meeting.
1256
- 1257 F. Inspections and Certification of Compliance. The developer shall retain the engineer of record or another
1258 professional engineer registered in the state of Florida and other professionals, if needed, to inspect
1259 the construction progress and certify the construction of all required improvements such as streets,
1260 parking areas, drainage structures, drainage systems, water and sewer facilities, landscaping and
1261 buffers, and all other improvements, for substantial compliance with the approved plans.
1262
- 1263 G. Right to enter. The Development Services Manager or duly authorized representative shall have the
1264 right to enter upon the property for the purpose of inspecting the quality of materials and
1265 workmanship and reviewing the construction of required improvements during the progress of such
1266 construction.
1267
- 1268 H. Periodic inspection required; correction of deficiencies. The Development Services Manager or his
1269 designated engineering and utility inspectors shall periodically inspect all phases of construction of
1270 streets, drainage improvements and utility installations including those improvements which are not
1271 to be dedicated to the public but are subject to this chapter. The Development Services Manager will
1272 immediately call to the attention of the developer, or the developer's engineer, any nonconforming
1273 work or deficiencies in the work. Correction of deficiencies in the work is the responsibility of the
1274 developer. It is the responsibility of the developer's contractor to schedule the appropriate
1275 inspections as identified on the permit.
1276
- 1277 I. Stop work orders. The Development Services Manager shall have authority to stop work if
1278 improvements not authorized in the approved plan are being installed or upon failure of the applicant
1279 or his engineer to coordinate the construction of the required improvements so as to minimize
1280 activities which may have adverse impacts on surrounding property.
1281
- 1282 1. Authority. Whenever the Development Services Manger finds any work regulated by this code being
1283 performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the
1284 Development Services Manager is authorized to issue a stop work order. In addition, the Development

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1285 Services Manager is authorized to issue a stop work order for the failure to contain or remove
1286 construction refuse as required in the Code of Ordinances, Chapter 9, Health and Sanitation.
1287

1288 2. Issuance. The stop work order shall be in writing and shall be given to the owner of the property
1289 involved, to the owner's agent, or to the person doing the work. Upon issuance of a stop work order,
1290 all work on the construction site shall immediately cease. The stop work order shall state the reason for
1291 the order, and the conditions under which the cited work will be permitted to resume.
1292

1293 3. Unlawful continuance. Any person who shall continue any work after having been served with a stop
1294 work order, except such work as that person is directed to perform to remove a violation or unsafe
1295 condition, shall be subject to penalties as prescribed by law.
1296

1297 J. Final inspections by Engineer of Record. Upon completion of all improvements required under the
1298 approved plans or phase thereof, an inspection must be performed by the developer's engineer and
1299 the landscape architect. Upon finding the development to be completed and in substantial
1300 compliance with the approved plans, the engineer and landscape architect must each submit a letter
1301 of substantial compliance along with record drawings to the City. No final inspection will be performed
1302 by the City until the letter(s) of substantial compliance and record drawings have been accepted. The
1303 letter(s) of substantial compliance may include a description of minor changes as shown on the record
1304 drawings. Only minor changes which do not substantially affect the technical requirements of the
1305 approved plans and this code are to be indicated on the Record Drawings.
1306

1307 1. Letters of substantial compliance shall be digitally signed and sealed in PDF format. Substantial
1308 compliance requires that the development, as determined by an on-site inspection by a
1309 professional engineer, is completed to all the specifications of the approved plans and that any
1310 deviation between the approved plans and actual as-built construction is so inconsequential that,
1311 on the basis of accepted engineering practices, it is not significant enough to be shown on the
1312 Record Drawings.
1313

1314 2. The respective professionals shall prepare and submit to the City digitally signed and sealed Record
1315 Drawings, in PDF format, of the completed project improvements. Record drawings shall be provided
1316 for the complete civil engineering and landscape features of the project.
1317

1318 3. Record drawings shall be the complete set of approved plans which show strikethrough and markup of
1319 the as-built information obtained from direct field observation, survey, or contractor "as-built"
1320 drawings. Topographic surveys will not be accepted.
1321

1322 K. Final Inspections by the City. Upon acceptance of the letter of substantial compliance and record
1323 drawings, the Development Services Manager will perform final inspections.
1324

1325 1. If the final inspections reveal that the development or phase is in substantial compliance with the
1326 approved plans, a certificate of completion will be issued. A certificate of completion is required
1327 prior to the issuance of a certificate of occupancy from the building division for any buildings
1328 associated with the project.
1329

1330 2. If the final inspections reveal that the development or phase thereof is not in substantial

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1331 compliance with the approved plans, a list of all deviations will be forwarded to the engineer. All
1332 deviations must be corrected prior to reinspection. A new letter of substantial compliance may
1333 be required prior to reinspection. Reinspection fees will be charged for each reinspection in
1334 accordance with the adopted fee schedule and must be paid prior to receiving a Certificate of
1335 Completion.

1336
1337 3. Projects involving permits or approvals issues by County, State or Federal agencies shall provide
1338 evidence that the respective agencies have approved, accepted or certified that the improvements or
1339 work subject to their review have been satisfactorily completed and are ready for use or to be placed
1340 into service. The City may withhold final Certifications of Completion or Occupancy pending receipt of
1341 such verification.

1342
1343 L. Turnover of developer installed improvements. Projects that include construction of improvements that will
1344 be turned over to the City for ownership and maintenance must also provide a complete package of
1345 turnover documents, acceptable to the City, as required by the Director.

1346
1347 1. Improvements shall be conveyed to the City by bill of sale in a form satisfactory to the City Attorney,
1348 together with such other evidence as may be required by the City that the improvements proposed
1349 to be transferred to the City are free of all liens and encumbrances.

1350
1351 2. Turnover documents must be provided to the Development Services Manager with the submittal of
1352 the Certification of Substantial Completion and Record Drawings.

1353
1354 3. Improvements constructed pursuant to this Section may not be placed into service or otherwise
1355 utilized until the required certificate of compliance has been issued.

1356
1357 M. Ongoing compliance. A development project must remain in compliance with the approved SDP or
1358 SCP, including all conditions, after a letter of substantial compliance, certificate of compliance, or
1359 certificate of occupancy has been issued by the City. This requirement applies to any property covered
1360 by the SDP or SCP, whether or not it continues to be owned by the original developer. For purposes
1361 of determining compliance, the SDP or SCP as approved and constructed, or subsequently amended
1362 in accordance with this section, will control. The standards applicable to review for compliance
1363 purposes will be based upon the regulations in effect at the time the plan approval, any applicable
1364 amendment, or revision was constructed.

1365
1366 N. Violation of an approved SDP or SCP.

1367
1368 1. Where construction is commenced for improvements not authorized by a SDP or SCP, the
1369 applicant will be issued a stop work order until an application to amend or correct the respective
1370 plan approval has been submitted and approved.

1371
1372 2. An application to amend or correct a SDP or SCP after construction has commenced in violation
1373 of the original approval will be charged an application fee equal to four times the original
1374 application base fee.

1375

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- 1376 3. Submittal of the application and payment of the application fee does not protect the applicant
1377 from the remedies described in Article 1, Section 1-6 of this Code. Any of these forms of relief can
1378 be sought or maintained by the City until the problem is abated.
1379
- 1380 4. Failure to maintain a development in compliance with a SDP or SCP issued and approved by a
1381 certificate of completion constitutes a violation of this Code.
1382
- 1383 O. Phased Projects. Development projects may be split into phases to accommodate the development
1384 plans and schedules of the developer.
1385
- 1386 1. Site Development Plans. The phasing plan shall show all required facilities, infrastructure, and
1387 buildings, if applicable, on the entire parcel that is covered by the SDP approval.
1388
- 1389 a. If more than one building is covered by the SDP and the developer does not intend to
1390 receive certificates of occupancy (CO) for all of the buildings at one time, a separate Site
1391 Development Permit will be required for each build or builds to receive a CO apart from
1392 the other buildings.
1393
- 1394 b. A certificate of compliance for streets, utilities, parking areas, and drainage serving each
1395 building(s) will be required from the engineer of record prior to the City performing final
1396 inspection and closing permit and prior to receiving a certificate of occupancy from the
1397 Building Division.
1398
- 1399 c. If a final inspection is requested for only a portion of a development, that portion must be
1400 an approved phase of the development in accordance with the approved SDP.
1401
- 1402 2. Subdivision Construction Plans. Phasing of the SCP shall be in accordance with the PSP
1403 approval as established in Article 10.
1404

Section 3.3.9 Temporary Use Permits.

- 1406
- 1407 A. Purpose and Intent. To authorize the temporary uses and activities which do not exceed specific
1408 time frames:
1409
- 1410 B. General Standards.
1411
- 1412 1. Only those uses that are listed below or otherwise approved as temporary uses in Article 5, may
1413 be allowed as temporary uses.
1414
- 1415 2. Each temporary use shall be evaluated by the Community Development Department for
1416 compliance with the standards and conditions set forth in the LDC and the applicable zoning
1417 district. Special event uses are evaluated by the Parks and Recreation Department.
1418
- 1419 3. A temporary use permit shall take effect at the time of permit issuance and is in effect only for
1420 the specific time-period established in the temporary use approval.
1421

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1422 C. Review Criteria. When considering an application for a temporary use, the Community Development
1423 Director or Parks and Recreation Director, as appropriate, shall consider whether and the extent to
1424 which:

- 1425
- 1426 1. The temporary use is consistent with the purposes, goals, objectives, and policies of the
1427 Comprehensive Plan;
 - 1428
 - 1429 2. The temporary use complies with all relevant and appropriate portions of Article 5, Development
1430 Standards;
 - 1431
 - 1432 3. The temporary use is not incompatible with the character of the immediate surrounding area;
 - 1433
 - 1434 4. The design, duration, and hours of operation of the temporary use minimizes adverse impacts on
1435 nearby properties, including visual and noise impacts;
 - 1436
 - 1437 5. Whether the use complies with all relevant standards related to health, sanitation, and
1438 transportation;
 - 1439
 - 1440 6. The temporary use complies with all other applicable provisions of this Code;
 - 1441
 - 1442 7. Any permanent structures used in conjunction with a temporary use must comply with the
1443 requirement for adequate public facilities referenced in the comprehensive plan; and
 - 1444
 - 1445 8. Whether any public safety detail will be necessary.

1446

1447 D. Allowable temporary uses: The following temporary use shall require a permit:

- 1448
- 1449 1. Temporary storage.
 - 1450
 - 1451 2. Seasonal sales.
 - 1452
 - 1453 3. Construction trailers.
 - 1454
 - 1455 4. Construction staging areas and post disaster debris staging.
 - 1456
 - 1457 5. Temporary sales offices.
 - 1458
 - 1459 6. Temporary habitable structures.
 - 1460
 - 1461 7. Special Events.

1462

1463 **Section 3.3.10. Temporary storage.**

1464

1465 A. Temporary storage containers are prohibited in any zoning district of the city, except as follows:

1466

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1512
1. Residential zoning districts. No more than one temporary storage container per dwelling unit is permitted in residential zoning districts.
 2. Non-residential zoning districts. No more than two temporary storage containers are permitted in non-residential zoning districts. In the case of multi-tenant non-residential properties, each business or tenant may have a temporary storage container.
 3. This section is not intended to restrict the storage or location of temporary storage containers on the premises of a business which is lawfully engaged in the sale, rental, or distribution of such containers so long as the containers are on the property of such business as "merchandise" and not for temporary storage of items or goods.
 4. The provisions of this section shall not apply to prohibit or restrict the location of temporary storage containers on any property for which a valid City of Cape Coral building permit has been issued and is in effect provided that the construction on the property has not been abandoned or allowed to lie idle in violation of Chapter 9 of the City of Cape Coral Code of Ordinances.
- B. General Requirements:
1. No temporary storage container may be placed in one or more parking spaces if the required number of parking spaces is reduced below the minimum number of spaces required for the site.
 2. No temporary storage container shall block or reduce access to fire lane(s), handicapped parking area(s), or drainage facilities or structures, including swales and catch basins.
 3. Temporary storage containers shall not be placed in an easement or in any area designated as a buffer.
 4. The maximum size of temporary storage containers shall not exceed ten feet in width, ten feet in height, or 40 feet in length.
 5. Non-residential zoning districts. Temporary storage container permits are valid for 30 days. A maximum of two temporary storage container permits may be issued for a property or, in the case of multi-use or multi-unit properties, for each business or commercial enterprise located on the property in any calendar year. Temporary container permits may run consecutively without any minimum period required to elapse between the issuance of permits.
 6. Residential zoning districts. Temporary storage container permits are valid for seven days. A maximum of two temporary storage container permits may be issued in any calendar year. Temporary container permits may run consecutively without any minimum period required to elapse between the issuance of permits. No dwelling unit shall utilize a temporary storage container for more than 14 days in any 12-month period.

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1513 **Section 3.3.11 Seasonal sales.**

1514

1515 A. Except as provided herein, temporary outdoor seasonal sales of merchandise are prohibited.
1516 Seasonal sales of pumpkins, Christmas trees, or fireworks are permitted when conducted or
1517 sponsored by governmental agencies, nonprofits, charitable or religious organizations, sports,
1518 educational groups, social groups such as garden clubs, and fraternities or sororities. Seasonal sales
1519 of Girl Scout cookies and similar sales are permitted.

1520

1521 B. Permitted seasonal fundraising events involving outdoor sales of merchandise shall meet the
1522 appropriate requirements of the Building Code, Electrical Code, Fire (Life Safety) Code, and
1523 Plumbing Code, particularly regarding temporary sanitary facilities; and are prohibited unless they
1524 received all required permits in compliance with this subsection. Sales of pumpkins, Christmas
1525 trees, or fireworks shall be permitted in all zoning districts except R1, RML, RE, MX7, and PV, . With
1526 the prior approval of the City, such sales may be permitted in accordance with the following
1527 limitations and requirements:

1528

1529 1. Pumpkins may be sold from October 1 through November 5;

1530

1531 2. Christmas trees may be sold from November 15 through January 1;

1532

1533 3. Fireworks may be sold from December 15 through January 1 and from June 1 through July
1534 10;

1535

1536 4. The hours of operation of all such seasonal sales shall be limited to 8:00 a.m. through 10:00
1537 p.m.; and

1538

1539 5. Seasonal sales shall comply with all location and permitting requirements specified in § 3.2.1.

1540

1541 C. In the RMM zoning districts, the City may withhold approval of the seasonal sale if he or she
1542 determines that such sale would result in adverse impacts on the surrounding neighborhood.
1543 Alternatively, the City may place condition(s) on the approval of a seasonal sale in an RMM zoning
1544 district, if such condition(s) are necessary in order to protect the surrounding neighborhood from
1545 adverse impacts which would otherwise result from the seasonal sale.

1546

1547 **Section 3.3.12 Construction trailers.**

1548

1549 A. Construction trailers in residential zoning districts are subject to the following requirements.

1550

1551 1. Construction trailers shall not be connected to potable water and sewer facilities. If the
1552 construction trailer is wired for electricity, the wiring must conform to all applicable city
1553 electric codes.

1554

1555 2. The construction trailer must be removed from the site prior to issuance of a certificate of
1556 occupancy.

1557

1558 3. No overnight residential use shall be permitted in a construction trailer.

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- 1559
- 1560 4. Construction trailers must comply with the setback requirements of the zoning district or the
- 1561 site.
- 1562
- 1563 5. Construction trailers shall not be larger than 200 square feet.
- 1564
- 1565 B. Construction trailers in non-residential zoning districts are subject to the following
- 1566 requirements.
- 1567
- 1568 1. When a construction trailer is used as a temporary office, the trailer must be wired for
- 1569 electricity and must be connected to potable water and sewer facilities, if available. Wiring
- 1570 and plumbing must conform to applicable Electric and Plumbing Codes.
- 1571
- 1572 3. The construction trailer must be located at the construction site or an abutting site with the
- 1573 property owner's written permission.
- 1574
- 1575 4. The construction trailer must be removed from the site prior to issuance of a certificate of
- 1576 occupancy.
- 1577
- 1578 5. No overnight residential use shall be permitted in a construction trailer.
- 1579
- 1580 6. Construction trailers must comply with the setback requirements of the zoning district or the
- 1581 site.
- 1582

1583 **Section 3.3.13 Construction staging areas and post disaster debris staging.**

1584

- 1585 A. Contractor staging for essential public facilities. Contractor staging areas for materials used in
- 1586 construction of essential public facilities are permitted in all zoning districts, subject to the following
- 1587 requirements:
- 1588
- 1589 1. The temporary staging area shall serve a project being carried out in the vicinity of the
- 1590 construction staging area;
- 1591
- 1592 2. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;
- 1593
- 1594 3. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through
- 1595 Saturday only.
- 1596
- 1597 4. Fencing is not required but may be installed for security or screening purposes.
- 1598
- 1599 5. No structures other than a permitted construction trailer may be placed on the property.
- 1600
- 1601 6. No outdoor lighting is permitted for any staging area in a residential zoning district.
- 1602
- 1603 7. No jack-hammering, grinding, or crushing of concrete, rebar, or other construction materials is
- 1604 permitted.

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- 1605
1606 B. Construction staging areas. Construction staging areas are a permitted activity in all zoning districts,
1607 provided the staging area is on the same parcel where construction activity is authorized by a valid
1608 building permit. Construction staging areas on vacant, adjoining, or nearby parcels is prohibited.
1609
1610 C. Post disaster debris staging areas. Post disaster debris staging areas are allowed in all zoning
1611 districts on sites designated by the City for such activity.
1612
1613 D. Post disaster construction staging. Staging areas for post disaster reconstruction efforts are allowed
1614 in all non-residential zoning districts. Post disaster construction staging is allowed in residential
1615 zoning districts as a (special exception/conditional) use.
1616

1617 **Section 3.3.14 Temporary sales offices.**
1618

- 1619 A. Temporary sales offices are mobile structures used only for the sale or lease of units within that
1620 development. For the purpose of this section, units within the development shall mean
1621 residential, non-residential, or mixed use habitable space or leasable floor area, whether
1622 occupying all of a building or individual areas within a building including residential units,
1623 residential or non-residential units, individual units in a multi-unit non-residential development,
1624 or freestanding residential or non-residential structures.
1625
1626 B. Requirements for a temporary sales office. The following requirements must be met prior to the
1627 approval of a temporary sales office:
1628
1629 1. Connection to sewer and water is required. If sanitary sewer and potable water are unavailable
1630 to the site, bottled water and portable sanitary facilities may be utilized until such time as
1631 sanitary sewer and potable water are available. A temporary sales office shall be connected to
1632 such facilities within 90 days of availability or within 90 days of the permitted temporary sales
1633 office, whichever is less.
1634
1635 2. The temporary sales office shall meet the setbacks of the zoning district in which it is located.
1636
1637 3. A temporary sales office shall not be used as a place of habitation or abode by any person(s),
1638 and shall not be used or occupied for business, office, or other purpose(s) at any time except
1639 between the hours of 7:00 a.m. and 9:00 p.m.
1640
1641 4. A minimum of three paved off-street parking spaces shall be provided for the temporary sales
1642 office.
1643
1644 5. The entrance to the site on which the temporary sales office is located shall consist of a city
1645 approved driveway or construction entrance. Any impervious area added for the temporary
1646 sales office shall be subject to review and approval by the city.
1647
1648 6. The base of any temporary sales office shall be fully obscured by landscaping and skirting.
1649 Shrubs must be planted on 30-inch centers and have a minimum planted height of two feet.

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1650 The type of irrigation, if applicable, must also be provided on the plan. Erosion shall be
1651 minimized and prevented to the extent practicable around any disturbed area.
1652

1653 7. The maximum duration of the permit shall not exceed one year. The Director may extend
1654 permits for up to six months each, based upon factors that include:

1655 a. Size of the project.

1656 b. Number of lots or units in the development remaining to be sold or leased.
1657

1658 c. Effect that the extension would have on the surrounding properties.
1659

1660 d. Developer's need for an extension and efforts, if any, the developer has put forward
1661 toward completion of the development (e.g., effort to complete construction in a timely
1662 manner, delays beyond the reasonable control of the developer, etc.).
1663

1664 8. A temporary sales office shall be removed no later than the date the development is completed
1665 or within 30 days after notice by the city that the application for development has been denied,
1666 whichever is applicable.
1667

1668 C. Permit application and submittal requirements. A permit shall be required for a temporary sales
1669 office. In order to obtain a permit for the use of a structure for a temporary sales office, the
1670 applicant shall submit the following to the Department of Community Development:
1671

1672 1. A scaled drawing of the site, identifying the location of the temporary sales office with
1673 dimensions. Construction plans shall also be submitted.
1674

1675 2. The names of the property owner and the operator of the temporary sales officer. In the
1676 event the operator is different from the property owner, written and notarized consent from
1677 the property owner must be submitted. Such written consent shall be revocable. In the event
1678 such consent is revoked, the temporary sales office shall be removed within 30 days.
1679

1680 3. The length of time the temporary mobile sales office is proposed for the site.
1681

1682 4. The description of potable water and sanitary facilities that will be available for the
1683 temporary office.
1684

1685 D. Inspection by city officials. In order to ensure compliance with all applicable laws and regulations,
1686 the temporary sales office shall be held open for reasonable inspection, without court order, by
1687 employees or agents of the City of Cape Coral or any other duly authorized governmental agency.
1688

1689
1690
1691 **Section 3.3.15 Temporary Habitable structures.**
1692

1693 A. Purpose and intent. The purpose of this ordinance is to provide a means by which residents,
1694 business owners, governmental agencies, and medical facilities are able to live and conduct
1695 business on the same site as their damaged structure using temporary housing and temporary

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1696 business structures. When disasters result in significant destruction rendering homes and
1697 businesses uninhabitable, temporary housing and temporary business structures will provide
1698 residents and businesses with the ability to quickly resume normal activities during the restoration
1699 of their permanent structures.
1700

1701 B. Definitions. Terms used in this subsection shall have the meanings as defined in Article 11,
1702 Definitions, unless the context clearly indicates or requires a different meaning.
1703

1704 C. Declaration of habitable structure emergency. Following a disaster, the city shall evaluate the
1705 effect of the disaster on the public health, safety, and welfare. If the City Council finds that the
1706 disaster has negatively affected residential housing or business structures in the city by a
1707 significant degree, the City Council may, by a majority vote, declare the existence of a habitable
1708 structure emergency. Upon the declaration of a habitable structure emergency by vote of the
1709 City Council, the provisions of this subsection shall become effective. The habitable structure
1710 emergency shall identify the disaster which created the emergency situation, and may be
1711 declared for either a specified period of time or an indefinite period of time. If the emergency is
1712 for an indefinite period of time, the emergency shall continue until City Council, by a majority
1713 vote, terminates the habitable structure emergency.
1714

1715 D. Habitable structure emergencies. During a habitable structure emergency, the city will allow, in
1716 accordance with the provisions set forth herein, the use of temporary structures. Temporary
1717 residential structures and temporary business structures must be approved by the city with a
1718 temporary placement permit. Application and issuance criteria for a temporary placement permit
1719 are as set forth below.
1720

1721 E. Temporary business structures may be used for business owners to provide a means for a business
1722 to remain open during the time the permanent business structure is being repaired or replaced.
1723 Temporary business structures may be used to provide temporary facilities for governmental uses,
1724 critical public facilities, charitable, religious, or educational institutions that have been rendered
1725 uninhabitable. The regulations for temporary business structures shall apply to temporary business
1726 structures used for governmental uses, critical public facilities, charitable, religious, or educational
1727 institutions. For these institutions, the habitable structure regulations shall apply; however, the
1728 Building Official may waive any regulations when strict enforcement may preclude them from
1729 carrying out their normal or emergency functions. Critical facilities shall be limited to the following:
1730

1731 1. Federal, state, regional, or local government facilities;
1732

1733 2. State, county, or local emergency operations centers;
1734

1735 3. Police, fire, and emergency medical facilities;
1736

1737 4. Radio and television stations;
1738

1739 5. Public, semi-public, and privately-owned utilities;
1740

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- 1741 6. Hospitals, emergency medical care facilities, infusion centers, dialysis centers, physician's
1742 offices; and
1743
1744 7. Nursing homes and assisted living facilities.
1745
- 1746 F. Temporary placement permit. Following the declaration of a habitable structure emergency, a
1747 property owner may apply for a temporary placement permit (TPP) to locate onsite while the
1748 permanent structure is being repaired or rebuilt. A temporary placement permit (TPP) may be
1749 considered by the Building Official when the following criteria are met:
1750
- 1751 1. The existing permanent habitable structure has been determined to be uninhabitable as the
1752 result of a disaster by inspection of the city Building Official;
1753
- 1754 2. The property owner or occupant of a damaged structure desires to locate in a temporary
1755 residential or business structure; and
1756
- 1757 3. A habitable structure emergency must be in effect at the time of application.
1758
- 1759 G. Applications for temporary placement permits.
1760
- 1761 1. Application forms and required fees.
1762
- 1763 2. The following permits are required prior to application for a TPP:
1764
- 1765 a. City permits for hook-up to electric, potable water, and wastewater utilities; and
1766
- 1767 b. A State Department of Health or State Department of Environmental Protection permit
1768 authorizing the connection of the temporary residence to an onsite or small domestic
1769 wastewater treatment system.
1770
- 1771 H. Time limits. Temporary structures may be located for a period not to exceed 30 days. At the end
1772 of that 30-day period, if no application has been filed, the temporary habitable structure must
1773 be immediately removed from the site. If an application has been filed within the 30-day time
1774 period, the temporary habitable structure may remain in place until the TPP is either approved
1775 or denied. Once approved, the temporary habitable structure may remain in accordance with the
1776 TPP. If denied, the temporary structure shall be removed within five days from the date of denial.
1777
- 1778 I. Terms of use of temporary habitable structures. Applicants for a temporary habitable structure
1779 shall be subject to the following:
1780
- 1781 1. Except as otherwise provided herein, temporary structures shall not be occupied until such
1782 time as a valid TPP has been issued and is in effect for the site.
1783
- 1784 2. Connection to sanitary sewer and potable water, or onsite water and wastewater facilities,
1785 and an external electrical system are required within 20 days of issuance of the TPP.
1786 Inspections for such connections shall be called into the city within two days of completion

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1787 of each connection. Electrical and plumbing connections must be done by electricians or
1788 plumbers licensed to do business in the City of Cape Coral.

1789
1790 If there is no electricity to the site due to a power outage, a generator may be used. Upon
1791 restoration of electricity to the property, connection to the local power grid must be made
1792 within 24 hours of power restoration.

1793
1794 3. An application for a building permit is required within three months from the date of
1795 issuance of the TPP for temporary residential structures or within six months for temporary
1796 business structures. Failure to apply for a building permit within the required time shall deem
1797 the TPP revoked pursuant.

1798
1799 4. If a building permit application has not been submitted within the required time-frames, an
1800 applicant may petition City Council for relief from the time restrictions of this subsection.
1801 City Council shall determine whether the failure to apply for a building permit is due to good
1802 cause shown by the applicant. If City Council denies the request for relief, the temporary
1803 structure shall be removed from the site within ten days from the date of denial, or at the
1804 end of the initial three-month period for temporary residential structures, or at the end of
1805 the initial six-month period for temporary business structures, whichever is later.

1806
1807 5. Temporary habitable structures with a TPP may be used until the earlier of: 1) completion of
1808 the rehabilitation or reconstruction of the damaged structure; or 2) until such time as the
1809 owner or occupants of the damaged structure are established in a permanent structure at
1810 another location.

1811
1812 6. Occupants must comply with all mandatory hurricane evacuation requirements.

1813
1814 J. Temporary structures. Temporary habitable structures must comply with the following:

1815
1816 1. Temporary residential structures may consist of a recreational vehicle or a travel trailer.
1817 Temporary business structures may consist of recreational vehicles, travel trailers, or mobile
1818 offices. At the discretion of the Building Official, additional types of temporary business
1819 structures may be allowed, consistent with applicable federal, state, and local regulations and
1820 the provisions of this ordinance.

1821
1822 2. Must meet all applicable National Fire Protection Association and Life Safety codes and
1823 regulations as well as all applicable state and local requirements for tie-downs.

1824
1825 3. Shall contain plumbing (both water and wastewater) and electrical connections and shall be
1826 capable of being hooked up or attached to external plumbing and electrical systems. Temporary
1827 residential structures shall contain a kitchen capable of being hooked up or attached to external
1828 plumbing and electrical systems. Requirements for temporary business structures shall be
1829 based upon the proposed use.

1830
1831 4. Shall meet the Florida Accessibility Code for building construction amenities.

1832

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- 1833 K. Placement of temporary habitable structures. The following site considerations are required for
1834 placement of a temporary habitable structure:
1835
- 1836 1. Temporary residential structures may be anywhere on the site of the existing permanent
1837 residence; however, no a temporary residence is allowed within road rights-of-way or
1838 drainage or utility easements. The city may waive any development regulations regarding lot
1839 areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
1840 temporary residential structures.
1841
- 1842 2. Where more than one existing permanent residence has been rendered uninhabitable, the
1843 Building Official may allow up to the number of damaged permanent residences or residential
1844 units on the site. Such determination shall be based upon consideration of life, health, and
1845 safety requirements.
1846
- 1847 3. For temporary business structures:
1848
- 1849 a. Temporary business structures may be anywhere on the parcel of the existing business;
1850 however, temporary business structures are not allowed within road rights-of-way or
1851 drainage or utility easements. The city may waive any development regulations regarding
1852 lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
1853 temporary business structures.
1854
- 1855 b. Temporary business structures may be on property adjacent to the permanent business
1856 structure if a notarized, written consent from the property owner is submitted at the
1857 time of application for a TPP.
1858
- 1859 c. The establishment of an emergency response team center on a parcel containing a
1860 business does not necessarily preclude the placement of one or more temporary business
1861 structures on the same parcel.
1862
- 1863 d. Parking for a temporary business structure shall be provided based upon the square footage
1864 of the temporary business structure, including handicapped parking. However, a minimum
1865 of two handicapped parking spaces must be provided.
1866
- 1867 e. The entrance to the site shall have a city approved driveway or construction entrance.
1868 Any impervious area added for the temporary business structure shall be subject to
1869 review and approval by the city.
1870
- 1871 f. Additional conditions or restrictions may be placed on a temporary business structure as
1872 a condition of issuance in areas including, but not limited to, the following:
1873 i. Hours of operation;
1874 ii. Traffic control and access;
1875 iii. Lighting; and
1876 iv. Noise control.
1877

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- 1878 L. Issuance and revocation. The Building Official may revoke a TPP upon finding that any of the
1879 following has occurred:
1880
- 1881 1. Failure to connect to water, sewer, and electrical within 20 days of the receipt of the TPP.
1882
 - 1883 2. If an application for a building permit has not been submitted within required time from the
1884 date of receipt of the TPP, or relocation has not occurred before the time of expiration of the
1885 TPP, or, if a building permit later expires.
1886
 - 1887 3. If, upon inspection by the Building Official, a temporary residence is not in compliance with
1888 the requirements of this subsection.
1889
 - 1890 4. Failure to evacuate temporary residence during mandatory evacuation orders.
1891
 - 1892 5. Upon revocation of a TPP, the temporary residence must be vacated and the temporary
1893 residence removed within five days of revocation. Failure to vacate or remove the temporary
1894 residence constitutes a violation subject to the penalty imposed herein.
1895
- 1896 M. Extensions and expiration of temporary placement permits.
1897
- 1898 1. Residential TPPs shall be valid for six months from the date of issuance. The Building Official
1899 may, for good cause shown, issue up to two extensions for six months each, for an 18-month
1900 maximum period of validity from the date of issuance.
1901
 - 1902 2. Non-residential TPPs shall be valid for nine months from the date of issuance. The Building
1903 Official may, for good cause shown, issue up to two extensions for six months each, for a 21-
1904 month maximum period of validity from the date of issuance.
1905
 - 1906 3. All applications for extensions of time must be submitted prior to the date of expiration of
1907 the current TPP.
1908
 - 1909 4. Any further extensions after the second extension and maximum time period may not be
1910 issued by the Building Official: however, applicants may submit a request to City Council for
1911 their approval of any further extension of time for the TPP.
1912
 - 1913 5. Factors to be considered by the Building Official or the City Council in determining whether
1914 to grant an extension of time of the TPP shall include:
1915
 - 1916 a. The ability of the property owner or occupant of the temporary residential or business
1917 structure to secure permanent quarters; and
1918
 - 1919 b. Any hardship that, in the opinion of the Building Official or City Council, as applicable,
1920 would warrant a further extension of the TPP.
1921
 - 1922 6. Upon the, expiration of a TPP, a temporary residence or business structure must be removed
1923 or placed in proper storage on the property within 30 days. Failure to remove or properly

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1924 store the temporary residence or business structure constitutes a violation subject to the
1925 penalty imposed herein.

1926
1927 7. Termination of temporary habitable structure. Once an uninhabitable structure has been
1928 issued a certificate of occupancy or certificate of use for a new or rehabilitated residence,
1929 business, or institutional facility, the TPP shall be deemed to be terminated. A temporary
1930 residential or business structure must then be removed or placed in proper storage on the
1931 property within 30 days. Failure to remove or properly store the temporary residence or
1932 business structure constitutes a violation subject to the penalty imposed herein.

1933
1934 8. Penalty. Any violation of the provisions of this subsection shall be subject to a \$500 fine. Each
1935 day of violation shall constitute a separate offense and shall be punishable as such.

1936
1937 **Section 3.3.16 Special Events.**

1938
1939 A. Special events in the city are administered and permitted by the Parks and Recreation Department.

1940
1941 B. Application and general requirements. Special events permits may be issued provided the following
1942 requirements are met:

1943
1944 1. A completed, signed, and notarized application shall be submitted no less than 60 days prior to
1945 the opening of the event. The application shall include the name and address of each applicant
1946 sponsoring the special event, the dates, times, and specific details of the event, and a list of all
1947 special events that the applicant has sponsored in the City for the past three years. Exceptions
1948 to the 60-day requirement may be approved by the Director of Parks and Recreation based on
1949 the size, duration, or nature of the event. The city reserves the right to verify the applicant's
1950 previous history of sponsoring special events with other jurisdictions.

1951
1952 2. A refundable clean-up deposit is submitted. The property shall be cleaned within 48 hours of
1953 the close of the event and returned to substantially the same condition that existed just prior
1954 to the start of the event or better. The clean-up deposit will be refunded upon satisfactory
1955 inspection of the property by the city after the event closes. If the property is not returned to
1956 substantially the same condition that existed just prior to the start of the event, or better, the
1957 city, in its sole discretion, may utilize the clean-up deposit to do so and refund the remainder,
1958 if any, to the applicant.

1959
1960 3. A site plan of the event venue and surrounding property shall be submitted. The site plan
1961 shall show the layout of all activities, such as stages, equipment, including location(s) where
1962 sound amplification equipment, if any, will be allowed, amusement rides, animal displays,
1963 etc., and all support facilities including egress and ingress locations, parking, refuse
1964 collection, sanitation, and lighting. The site plan shall also identify the presence of any
1965 environmentally sensitive issues including eagles, burrowing owls, tortoises, osprey, etc.

1966
1967 4. If the applicant does not own the property for the special event or associated parking, a signed
1968 and notarized letter of permission from the property owner is required, along with a release
1969 and indemnification agreement in a form accepted by the City Attorney. If the applicant intends

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- 1970 to transport patrons to the special event from a specified parking area, complete details
1971 including all traffic routes to be utilized shall be submitted to the city for approval.
1972
1973 5. Insurance requirements.
1974
1975 a. Certificates of insurance for all properties used for the event must be submitted to the
1976 Parks and Recreation Department for approval by the City Risk Manager no less than 21
1977 days prior to the event.
1978
1979 b. Applicants and vendors shall have commercial and general liability insurance, including
1980 coverage for independent contractors, premises and operations, contractual liability,
1981 products and completed operations, personal injury, and property damage. Insurance
1982 coverage shall be no less than \$1,000,000 combined single limit for bodily injury and
1983 property damage and no less than \$1,000,000 for liquor liability, if applicable.
1984
1985 c. Vendors shall also have motor vehicle liability insurance of no less than \$1,000,000 per
1986 vehicle and worker’s compensation coverage as required by statute.
1987
1988 d. The City of Cape Coral shall be named as additional insured. Certificates of insurance shall
1989 show the City of Cape Coral as the certificate holder.
1990
1991 6. All applicable city ordinances and building, fire, and electrical codes shall be complied with.
1992
1993 7. Most events shall require off-duty City of Cape Coral police officers to be hired for the
1994 duration of any event to include one hour before opening and one hour after closing. The
1995 Police Chief shall determine the exact number of officers required, if any, based upon the
1996 size and nature of the event and past experience with similar events. The cost for the off-
1997 duty detail shall be set using the present rate charged by the Police Department which shall
1998 be paid by the applicant prior to the issuance of the permit. All applicants must comply with
1999 any rules or regulations imposed by the Police Chief which are consistent with this section.
2000
2001 8. Most events shall require off-duty City of Cape Coral firefighters or paramedics, to be hired
2002 for the duration of any event to include one hour before opening and one hour after closing.
2003 The Fire Chief shall determine the exact number of firefighters or paramedics required, if
2004 any, based upon the size and nature of the event and past experience with similar events.
2005 The cost for the off-duty detail shall be set using the present rate charged by the Fire
2006 Department which shall be paid by the applicant prior to the issuance of the permit. All
2007 applicants must comply with any rules or regulations imposed by the Fire Chief which are
2008 consistent with this section. In the event the Fire Chief determines that special equipment
2009 such as all-terrain vehicles, trailers, fireboats, fire and rescue assets, and appropriate
2010 personnel for the special equipment are necessary, the city reserves the right to request
2011 reimbursement for all or part of the discretionary cost from the applicant.
2012
2013 9. No open flame or other device emitting flames or fire shall be used in any tent or air
2014 supported structure while open to the public.
2015

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10. All equipment including tents, stages, amusement rides, utility areas, ingress and egress points, and cooking areas shall be inspected and approved by city fire inspectors or state officials, if applicable, prior to the opening of the event. If applicable, inspection certificates and annual permits as required by the State of Florida, shall be submitted to the city prior to the opening of the event. All equipment or amusement rides, other than those which are patron-operated or controlled, shall only be operated by persons over 18 years of age who are employed by the applicant and who are thoroughly familiar with the operation of said equipment or amusement rides. The operator of such equipment or amusement rides shall be in the immediate vicinity of the operating controls at all times during the operation of the equipment or amusement rides and no unauthorized person shall be permitted to handle the controls during operation.
 11. Any person, entity, group, or organization engaging in speech, expression, or assembly, which is protected by the First Amendment of the United States Constitution or by Article I, Section 4 of the State of Florida Constitution, may do so during a Special Event, subject to the following reasonable time, place, and manner regulations.
 12. If sound amplifying equipment is present on public or private property at the special event, the Director of Parks and Recreation shall establish one or more designated areas where such amplified sound may occur. If amplified sound is not permitted for the special event, all amplified sound shall be prohibited; however, nothing in this regulation shall serve to prohibit protected speech, expression, or assembly utilizing non-amplified, reasonable sound. For purposes of this paragraph, amplified sound caused by the police or fire departments of the city in the performance of their official duties, and public background sound, shall not be considered amplified sound so as to allow others to use sound amplifying equipment.
 13. The Director of Parks and Recreation shall be responsible for the provisions of this section, department rules and regulations, and city ordinances. No action shall be taken to enforce this section until a warning to cease such a violation has been issued by a person authorized to enforce this section and the violator continues such violation.
 14. No person shall be permitted into, or remain on, private property covered by any special event permit for an event open to the public without the consent of the permittee.
 15. If a special event is open to the public only upon a payment of an entry fee or charge, no person shall be permitted into the special event without first paying the entry fee or charge.
 16. No person shall unreasonably hamper, obstruct, impede, or interfere with any person, entity, group, or organization hosting a permitted special event.
 17. All requirements of this section are subject to modification or waiver by the City Council based upon the size, duration, nature of the event, and the city's involvement.
- C. Review Criteria. In determining whether a permit shall be issued, the Director of Parks and Recreation shall consider certain criteria including:

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1. The size, duration, and nature of the event;
 2. Previous history of organizing one or more events within the City and whether any events created hazards or safety situations;
 3. Other events previously scheduled during the same time period within the city; and
 4. If the applicant has been adjudicated guilty of violating any provision of this section. Any adjudication may constitute grounds for denial of future special events permits by the city.
- D. Permit Decision.
1. The Director of Parks and Recreation may, in his or her sole discretion, deny the applicant a permit for the special event within the City of Cape Coral.
 2. The Director of Parks and Recreation shall have the authority to designate one or more areas during any Special Event for specific activities and to prohibit other activities within designated areas. Designated areas shall be posted when such posting is appropriate.
 3. Order to cease operation. If the Director of Parks and Recreation Department determines that proper provisions have not been made for the protection of the public health, safety, or welfare he or she may issue an order to cease operating said special event until such time as satisfactory corrective action has been taken.
- E. Violations and Penalties.
1. Intentional underestimation of the expected number of persons attending the event or failure to comply with any provision of this section, shall constitute a violation of this section, and shall subject the applicant to the code enforcement provisions and procedures provided in §§ 2-81 through 2-96 of the City of Cape Coral Code of Ordinances including any and all provisions that allow the city to seek relief as otherwise provided by law.
 2. Penalty. A violation of this section shall be punishable by a minimum fine of \$100 and a maximum fine of \$500, in addition to the taxation of any court costs, or imprisonment for a term not to exceed 60 days, or by both a fine and imprisonment.

CHAPTER 4. SPECIFIC REVIEW PROCEDURES - QUASI-JUDICIAL PERMITS AND APPROVALS

Section 3. 4.1 General Requirements

Effective Date. All quasi-judicial permits where the Hearing Examiner issues the final decision shall take effect on the date the Hearing Examiner Order for the application in question is recorded in the public record.

Section 3.4.2 Deviations

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- 2108
2109 A. Purpose and Intent. To grant relief from strict application of LDC requirements to allow minor
2110 deviations.
2111
2112 B. Scope. Deviations may be granted for the following:
2113
2114 1. Non-residential design standards in Article 5, Chapter 8.
2115
2116 2. Landscaping deviations in Article 5, Chapter 5, which do not qualify for an administrative
2117 deviation.
2118
2119 3. Design standards in the NC district.
2120
2121 C. Review Criteria. A Deviation may be approved based on the following criteria:
2122
2123 1. The proposed deviation will not result in development that is inconsistent with the intended
2124 character of the applicable zoning district.
2125
2126 2. The normally required code standard(s) is determined to significantly inhibit development of the
2127 site.
2128
2129 3. The deviation will not impede the ability of the project or site to adequately provide for service
2130 areas and other development features for the project.
2131
2132 4. Access for service and emergency vehicles will not be impeded.
2133
2134 5. The proposed deviations will result in a building and site design of equal or superior quality.
2135
2136 D. Effective date of approval. A deviation shall take effect upon approval by the Hearing Examiner.
2137

Section 3.4.3 Variances.

- 2139
2140 A. General.
2141
2142 1. A variance may be sought from any bulk, area, or dimensional standard contained in Article 4,
2143 Zoning Districts or Article 5, Development Standards of the LDC.
2144
2145 2. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no
2146 permitted use of land, structures, or buildings in other districts, shall be considered grounds for
2147 the issuance of a variance.
2148
2149 B. Approval Criteria. In order to authorize a variance, the Hearing Examiner must find that the application
2150 meets all of following criteria:
2151

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- 2152 1. That special conditions and circumstances exist which are peculiar to the land, structure, or
2153 building involved and which are not applicable to other lands, structures, or buildings in the same
2154 zoning district;
- 2155
- 2156 2. That the special conditions and circumstances do not result from the actions of the applicant;
- 2157
- 2158 3. That granting the variance requested will not confer on the applicant any special privilege that is
2159 denied by these regulations to other lands, buildings, or structures in the same zoning district;
- 2160
- 2161 4. That literal interpretation of the provisions of the regulations would deprive the applicant of rights
2162 commonly enjoyed by other properties in the same zoning district under the terms of these
2163 regulations and would cause or impart unnecessary and undue hardship on the applicant;
- 2164
- 2165 5. That the variance granted is the minimum variance that will make possible the reasonable use of
2166 the land, building, or structure;
- 2167
- 2168 6. That granting the variance will not change the use to one that is not permitted in the zoning
2169 district or different from other land in the same district; and
- 2170
- 2171 7. That the granting of the variance will be in harmony with the general intent and purpose of these
2172 regulations, and that the variance will not be injurious to the area involved or otherwise
2173 detrimental to the public welfare.
- 2174
- 2175 C. Effect of Approval. An approved variance shall run with the land.
- 2176

Section 3.4.4. Special Exceptions.

2177
2178
2179 The intent of this section is to permit Special Exception uses which are essential to, or would promote
2180 the public health, safety, or welfare in one or more zoning districts, but which might impair the integrity
2181 and character of the zoning district or in adjoining districts, such that restrictions or conditions on
2182 location, size, extent, and character of performance may be imposed in addition to those standards
2183 already imposed in the Land Development Code.

2184
2185 A. General.

- 2186
- 2187 1. No variances shall be granted that would reduce or eliminate minimum requirements for special
2188 exception uses.
- 2189
- 2190 2. The Hearing Examiner may prescribe appropriate conditions and safeguards in conformity with
2191 the special exception use requirements. All such conditions shall be part of the terms under
2192 which the special exception is granted.
- 2193
- 2194 3. A special exception shall be deemed abandoned if:
- 2195
- 2196 a. The use is discontinued for more than 1 year; or
- 2197

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- 2198 b. The special exception has not obtained a certificate of zoning compliance.
2199
2200 4. The proposed use shall comply with all requirements of the underlying zoning district(s), the
2201 Land Development Code, and all other applicable law.
2202
2203 B. Standards and Criteria. The following standards shall apply to all applications for special exception
2204 uses.
2205
2206 1. Consistency with the Comprehensive Plan?
2207
2208 2. The site must be suitable for the type of special exception use proposed by virtue of its location,
2209 shape, topography, and the nature of surrounding development.
2210
2211 3. All buildings shall be setback an adequate distance from property lines and rights-of-way.
2212 Greater building setbacks may be required when deemed necessary to protect surrounding
2213 properties.
2214
2215 4. Potential adverse impact to surrounding property must be mitigated to the maximum extent
2216 possible.
2217

Section 3.4.5. Vacations of Plats, Easements, and Rights-of-way.

2220 The purpose and intent of this section is to provide procedures for City Council to vacate rights-of-way,
2221 easements, and plats pursuant to authority granted under Florida law. The City Council may adopt
2222 ordinances vacating plats in whole or in part of subdivisions within the corporate limits of the city,
2223 returning the property covered by such plats either in whole or in part into acreage for the purpose of
2224 taxation, or vacating public rights-of-way, public easements, or other property in response to
2225 applications filed from adjoining property owners.

2226
2227 A. General.

- 2228
2229 1. The city may retain an easement for utilities or drainage over any vacated right-of-way and that
2230 no use may be made of vacated right-of-way which will be inconsistent with or interfere with
2231 the retained easement. The party seeking vacation of a plat, city street, alley, canal, other right-
2232 of-way, public easement, or other property must show or submit the following:
2233
2234 a. Petitioner has color of title to the tract or parcel of land covered by the plat or portion of
2235 the plat of which vacation is sought, unless the petitioner is the City of Cape Coral;
2236
2237 b. Letter of approval from Lee County Electric Cooperative, Inc.;
- 2238
2239 c. Letter of approval from affected telephone companies;
2240
2241 d. Letter of approval from affected cable companies; and
2242
2243 e. Letter of approval from any other affected utility companies (e.g., water, sewer);

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2. Applicants requesting to vacate rights-of-way or easements shall provide a recent boundary survey or survey sketch of the property prepared by a registered surveyor showing the area to be vacated and provide a complete legal description(s). The survey or sketch shall show all pavement and all utility and drainage facilities, including water, sewer, cable lines, utility poles, swales, ditches, manholes, and catch basins. Separate drawings and legal descriptions are required for each vacation area when right-of-way and easement configurations differ.
- B. Standards and Criteria. Applications for vacations shall be reviewed in accordance with the following criteria:
1. Whether the plat, easements, or rights-of-way are required by the City for any future transportation, access, water management, or public utility purposes.
 2. Whether any required easements are necessary to accommodate the vacation of any plat, easement, or right-of-way.
 3. If alternate routes are required or available that do not cause adverse impacts to surrounding areas.
 4. If the closure of a right-of-way negatively affects areas utilized for vehicles to turn around and exit an area.
 5. Whether local utility providers have given consent to the vacation of the plat, easements, or rights-of-way. The local utility providers may require additional easements or relocation of existing utilities facilities to complete the vacation.
- C. Additional Procedures and Noticing Requirements. In addition to the standard notice requirements required by this Code, the following additional notice requirements apply for vacations:
1. Specific notice requirements for vacations. Public hearing notices to vacate a plat or portion thereof shall be published once a week for two consecutive weeks, the first publication being not less than two weeks prior to the date of public hearing on the petition.
 2. If the parcel to be vacated includes an alley, all property owners serviced by the alley and all property owners serviced by a connecting alley shall be noticed.
 3. Adoption and recording of resolution and ordinance. After public hearing, the City Council may approve an application for a vacation if it determines there is no reasonably foreseeable public use for the vacated area. Approval of a vacation shall be by resolution or ordinance. The City may retain easements for utilities or drainage in and upon the vacated area. Upon adoption of the resolution vacating the plat or portion thereof, the City Clerk shall furnish to the petitioner a certified copy thereof and the petitioner shall cause the same to be recorded in the public records of the county and shall return a copy, showing the recording information, to the Department of Community Development.

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2290 4. Effect. The adoption and recording of a vacation shall have the effect of vacating all streets and
2291 alleys and city-owned easements shown on the portion of the plat so vacated, unless the
2292 resolution or ordinance specifically reserved unto the city such city-owned easements or such
2293 streets or alleys. If public rights-of-way are vacated, the resolution or ordinance shall specify
2294 whether or not easements are reserved therein for utilities and drainage. The resolution or
2295 ordinance shall not have the effect of vacating any public canal shown on the portion of the plat
2296 vacated, unless the resolution or ordinance specifically so provides.

2297
2298 5. Petitioner's responsibility. The city, City Council, and all officers, employees, and agents thereof
2299 shall not assume any responsibility or liability for any matters and things to be done or
2300 completed by the petitioner pursuant to the provisions hereof. It is recognized that this
2301 procedure may affect substantial interests in real property and other proprietary rights, and the
2302 petitioner shall assume full and complete responsibility for compliance with the requirements
2303 of law and these procedures in connection with or arising out of any vacation proceedings
2304 instituted by the petitioner.

Section 3.4.6. Rezones

2306
2307
2308 A. Manner of Initiation. Applications for a change in zoning may be initiated in the following manner:

- 2309
2310 1. The City Council upon its own motion;
2311
2312 2. The Planning and Zoning Commission upon its own motion;
2313
2314 3. The property owner(s) of at least fifty-one percent of the land in the proposed rezone area;
2315
2316 4. The City Manager for a City initiated rezone; or
2317
2318 5. The Community Development Department, following approval of a similar use determination.
2319

2320 B. Review Criteria. An application for a rezone shall be reviewed in accordance with the following
2321 criteria:

- 2322
2323 1. Whether the proposed zoning district proposed is consistent with the City Comprehensive Plan;
2324
2325 2. Whether the full range of uses allowed in the proposed zoning district will be compatible with
2326 existing uses in the area under consideration;
2327
2328 3. Whether the range of uses allowed in the proposed zoning district will be compatible with existing
2329 and potential uses in the area under consideration;
2330
2331 4. Whether the proposed zoning district will serve a community need or broader public purpose;
2332
2333 5. The characteristics of the proposed rezone area are suitable for the uses permitted in the
2334 proposed zoning district; and
2335

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2336 6. Whether a zoning district other than the district requested will create fewer potential adverse
2337 impacts to existing uses in the surrounding area.
2338

2339 C. Effective date of approval. A rezone shall take effect upon City Council adoption of the ordinance
2340 approving the rezone.
2341

2342 D. New application after denial. No application for a rezone which has been previously denied by the
2343 City Council shall be accepted for at least one year after the date of denial. An application to rezone
2344 property to a designation that is different than the designation which was denied by the City
2345 Council, will be accepted and considered without consideration of time since the previous
2346 application was denied.
2347

Section 3.4.7. Planned Unit Developments (PUD)

2348
2349
2350 A. General.

2351
2352 1. A Planned Unit Development (PUD) is an area designed for development as a cohesive unit,
2353 where uses and innovations in design and layout of the development provide public benefits
2354 when compared to standard zoning or uniform lot and block subdivision patterns and design
2355 features.
2356

2357 2. In a PUD, the various land use elements are designed so that they interrelate with each other.
2358 The boundary between a PUD and adjacent land area(s) requires particular attention to ensure
2359 transition and that land use patterns are compatible.
2360

2361 B. Purpose and Intent. The purpose and intent of a PUD are to:

2362
2363 1. Innovation in Design. To encourage innovations in residential, commercial, mixed-use, and
2364 industrial development so that the needs of the population may be met by greater variety in
2365 type, design and layout of buildings and land uses and by the conservation and more efficient
2366 use of the space.
2367

2368 2. Appropriate Land Use. To promote the most appropriate use(s) of the land.
2369

2370 3. High Quality Development. To improve the design, character, and quality of new development.
2371

2372 4. Infrastructure. To facilitate the adequate and efficient provisions of roads and utilities.
2373

2374 5. Increased Compatibility. To achieve compatibility with surrounding neighborhoods and
2375 developments.
2376

2377 6. Provision of Open Space. To preserve open space as development occurs.
2378

2379 7. Clustering of Uses. To provide for necessary commercial, recreational, and public facilities that
2380 are conveniently located to housing.
2381

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- 2382 8. Increased Flexibility. To provide for flexibility in design for new development and future
2383 redevelopment.
- 2384
- 2385 9. Comprehensive Plan. To achieve the goals of the Comprehensive Plan.
- 2386
- 2387 10. To provide a method for previously approved Planned Development Projects to continue to
2388 develop under the terms of an approved PDP Development Order and to allow modification to
2389 existing PDP approvals under the PUD procedures.
- 2390
- 2391 C. Minimum Parcel Size. The minimum parcel size for a PUD is:
- 2392
- 2393 1. Non-residential ~~or~~ mixed use, ~~or multi-family~~ PUD. One acre.
- 2394
- 2395 2. All other PUDs. Three acres.
- 2396
- 2397 D. PUD approval steps. The PUD review and approval process includes:
- 2398
- 2399 1. A rezone to the PUD zoning district, which establishes the densities, intensities, and permitted
2400 uses within the PUD; and
- 2401
- 2402 2. A Master Concept Plan (MCP), which establishes the design, layout, and dimensional standards
2403 of the PUD.
- 2404
- 2405 E. Application and submittal requirements. Application and submittal requirements for a PUD are
2406 established in Sections 3.1.4 through 3.1.8 of this Article. In addition, a PUD requires:
- 2407
- 2408 1. An application for a rezone to the PUD zoning district; and
- 2409
- 2410 2. A Master Concept Plan application.
- 2411
- 2412 3. Submittal of the specific PUD application requirements listed in subsection G., below.
- 2413
- 2414 A PUD application for parcels 10 acres or larger may apply for a rezone to the PUD zoning district
2415 without submitting a MCP for concurrent review and processing.
- 2416
- 2417 F. Preapplication conference required. A pre-application conference shall be held with the Community
2418 Development Department prior to the submittal of a PUD. The applicant shall indicate the requested
2419 PUD zoning district and a sketch of the PUD Master Concept Plan, if applicable.
- 2420
- 2421 G. Specific PUD Submittal Requirements. A PUD application shall include the following:
- 2422
- 2423 1. A Letter of Intent, including:
- 2424
- 2425 a. Reasons the PUD procedure is more desirable than a conventional plan;
- 2426
- 2427 b. General site description including acreages; and

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- 2428
- 2429 c. General project description.
- 2430
- 2431 2. A PUD Master Concept Plan indicating:
- 2432
- 2433 a. Location of the uses within the site;
- 2434
- 2435 b. Vehicle circulation patterns and points of access;
- 2436
- 2437 c. Pedestrian and bicycle circulation with links to other external path systems;
- 2438
- 2439 d. Open space plan; and
- 2440
- 2441 e. Landscape and buffer plans.
- 2442
- 2443 3. Sample formation of HOA or other organization to operate and maintain open space and other
- 2444 on-site public or private improvements.
- 2445
- 2446 4. Phasing plan, if applicable.
- 2447
- 2448 H. PUD Zoning Districts. Each PUD shall be rezoned to one of the following designations, based on
- 2449 proposed development:
- 2450
- 2451 RPUD - Residential PUD
- 2452 CPUD - Commercial PUD
- 2453 IPUD - Industrial PUD
- 2454 MXPUD - Mixed Use PUD
- 2455 PFPUD - Public Facilities PUD
- 2456
- 2457 The proposed PUD zoning district must meet the criteria for rezones as set forth by this Code.
- 2458
- 2459 I. Review Standards and Criteria.
- 2460
- 2461 1. Every PUD shall be in conformance with the City Comprehensive Plan. The maximum density or
- 2462 intensity within any PUD shall be consistent with the future land use designation of the site as
- 2463 determined by the Comprehensive Plan.
- 2464
- 2465 2. Specific uses, densities, and intensities for each PUD are established in the PUD rezone
- 2466 ordinance. The approved uses, densities, and intensities for a PUD shall take precedence over
- 2467 other standards and requirements in these regulations. The uses approved in a PUD shall be
- 2468 permitted uses.
- 2469
- 2470 3. Specific bulk, area, and dimensional standards for each PUD are approved in the MCP for a PUD
- 2471 and shall take precedence over the standards and requirements in these regulations for
- 2472 development that is not within an approved PUD. Elements to be evaluated for a PUD shall
- 2473 include:

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- 2474
- 2475 a. Appropriateness of the proposed or density or intensity of the development;
- 2476
- 2477 b. Internal and external compatibility of the development and surrounding uses;
- 2478
- 2479 c. Transition and separation between surrounding uses;
- 2480
- 2481 d. Vehicular and pedestrian circulation patterns;
- 2482
- 2483 e. Arrangement and functionality of open space;
- 2484
- 2485 f. Access points;
- 2486
- 2487 g. Public amenities, if applicable;
- 2488
- 2489 h. Additional amenities that will serve the project; and
- 2490
- 2491 i. Details and design of internal and external buffers.
- 2492
- 2493 4. Open Space.
- 2494
- 2495 a. For all PUDs except for IPUDs, a minimum of twenty-five percent of the total land area shall
- 2496 consist of common open space. The City may consider a request by the applicant for less
- 2497 than twenty-five percent common open space when deemed appropriate because of size,
- 2498 location, or nature of the proposed development.
- 2499
- 2500 b. The amenities or off-site improvements shall be utilized by the City or developed by the
- 2501 applicant to mitigate the reduction of open space or to fulfill the recreational needs of the
- 2502 City.
- 2503
- 2504 c. Areas that Do Not Count as Open Space. Parking and loading areas, streets, and rights-of-way
- 2505 shall not count toward usable open space.
- 2506
- 2507 d. Areas that Count as Open Space. Water bodies, surface water retention areas, preservation
- 2508 areas, and riparian areas that are preserved as open space shall count towards this minimum
- 2509 standard, even when they are not usable by or accessible to the residents of the PUD. All
- 2510 other open space shall be conveniently accessible from all occupied structures in the PUD.
- 2511
- 2512 e. Improvements Required. All common open space and recreational facilities shall be shown
- 2513 on the PUD Plan and shall be constructed and fully improved according to the development
- 2514 schedule established for each development phase of the PUD.
- 2515
- 2516 f. Landscaping along Sidewalks. All sidewalks within a PUD must be shaded by canopy trees.
- 2517 The area used for shading the sidewalks can be considered as part of the minimum open
- 2518 space requirement.
- 2519

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- 2520 g. Maintenance of Open Space. All open space shall continue to conform to its intended use,
2521 as specified on the PUD Master Concept Plan. To ensure that public open space identified in
2522 the PUD will be used as open space, restrictions, easements, or covenants shall be recorded
2523 in deeds or the open space areas may be dedicated to the public to ensure their
2524 maintenance and to prohibit the division of any public open space. Any subdivision of land
2525 will require a Property Owners Association (POA) or Home Owners Association (HOA) to
2526 ensure that open spaces within a PUD are maintained. The City is not required to accept
2527 dedication of open space areas.
2528
- 2529 5. PUD Perimeter Buffers. The boundary between a PUD and adjacent land uses shall be
2530 landscaped with a buffer that has sufficient width and shall include screening to ensure a proper
2531 transition and increase compatibility between land uses. The buffer shall be approved by City
2532 Council.
2533
- 2534 6. Street Standards. All streets, roads, and drive aisles shall be designed and constructed in
2535 conformance with the City's Engineering and Design Standards.
2536
- 2537 7. Phasing. When a PUD is developed in phases, a proportional amount of the open space and
2538 recreations areas shall be included in each phase, in order to comply with the open space
2539 requirements of this chapter at the completion of each phase of the development.
2540
- 2541 J. Master Concept Plan and concurrent Preliminary Subdivision Plan review. The approved Master
2542 Concept Plan may be used for Preliminary Subdivision Plan approval, as defined in Article 10,
2543 provided required details and information for PSP review are included in the MCP.
2544
- 2545 K. Amendments to Planned Unit Developments.
2546
- 2547 1. Administrative Amendments. Amendments to an approved PUD may be approved
2548 administratively if they meet the following criteria:
2549
- 2550 a. Density or intensity is increased by less than ten percent.
2551
- 2552 b. Open space is not decreased by more than five percent.
2553
- 2554 c. There are no changes to any condition of approval.
2555
- 2556 d. There is no change in permitted uses or types of structures.
2557
- 2558 e. Dimensional standards are changed by no more than ten percent.
2559
- 2560 2. Review Standards for amendments. An approved PUD Master Concept Plan may be amended if
2561 the applicant demonstrates that the proposed modification:
2562
- 2563 a. Is consistent with the efficient development and preservation of the entire PUD;
2564

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- 2565 b. Does not affect in a substantially adverse manner either the enjoyment of the land abutting
2566 upon, adjoining or across a street from the planned unit development;
2567
2568 c. Is not granted solely to confer a special benefit upon any person;
2569
2570 d. Does not contain proposed uses that detract from other uses approved in the PUD;
2571
2572 e. Does not contain an open space plan that differs substantially in quantity or quality from the
2573 originally approved plan; and
2574
2575 f. Contains streets and utilities that are coordinated with planned and existing street and
2576 utilities for the remainder of the PUD.
2577
2578 3. Amendments that require City Council Approval. Any amendment to a PUD that does not meet
2579 the criteria in subsection 1 through 2, above must be approved by the City Council.
2580

2581 L. Effect of PUD approvals.

- 2582 1. PUD zoning. A rezone to a PUD zoning district shall run with the land.
2583
2584 2. Master Concept Plans. A MCP shall be valid for any time period established in the conditions of
2585 approval for the MCP. If a specific time period is not specified then the MCP shall run with the
2586 land.
2587
2588 OR
2589 3. If a Site Development Plan, a building permit for vertical construction, or a subdivision plat has
2590 not been approved within 10 years, the Master Concept Plan shall be null and void, unless an
2591 extension has been approved by City Council.
2592

2593 M. Extensions. A PUD may receive one extension that is valid for two years. Upon expiration of the
2594 extension, the Master Concept Plan shall be null and void.
2595

2596 **CHAPTER 5. SPECIFIC REVIEW PROCEDURES - LEGISLATIVE APPROVALS**

2597
2598 **Section 3.5.1. Annexations**
2599

- 2600 A. Purpose of Annexations. Annexations shall be considered for the following reasons:
2601
2602 1. The annexation implements the Comprehensive Plan.
2603
2604 2. The annexation increases the City's inventory of non-residential lands.
2605
2606 3. The annexation results in the removal of enclaves.
2607
2608 4. The annexation results in the logical extension of City boundaries.
2609

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- 2610 B. Manner of Initiation. Applications to annex property in to the City may be initiated in the following
2611 manner:
2612
2613 1. The City Council; or
2614
2615 2. By a petition of one or more owners of property within an area proposed for annexation.
2616
2617 C. Review Criteria. Proposed annexations shall be reviewed in accordance with the requirements of
2618 Chapter 171, Florida Statutes.
2619
2620 D. Effective date of approval: The effective date of an annexation will take place in accordance with
2621 Chapter 171, Florida Statutes.
2622

Section 3.5.2. Future Land Use Map Amendments

- 2624
2625 A. Purpose of Amendments. Future Land Use Map amendments shall be considered for the following
2626 reasons:
2627
2628 1. The amendment implements the goals, objectives, and policies of the Comprehensive Plan.
2629
2630 2. The amendment promotes compliance with changes to other city, state, or federal regulations.
2631
2632 3. The amendment results in compatible land uses within the a specific area.
2633
2634 4. The amendment implements findings of reports, studies, or other documentation regarding
2635 functional requirements, contemporary planning practices, environmental requirements, or
2636 similar technical assessments.
2637
2638 5. The amendment is consistent with the City's ability to provide adequate public facilities and
2639 services.
2640
2641 6. The amendment prepares the City for future growth, such as reflecting changing development
2642 patterns, identifying demands for community services, reflecting changes necessary to
2643 accommodate current and planned growth in population, and facilitating community
2644 infrastructure and public services.
2645
2646 B. Manner of Initiation. Applications for a Future Land Use Map Amendment (FLUMA) may be initiated
2647 in the following manner:
2648
2649 1. The City Council by its own motion;
2650
2651 2. The Planning and Zoning Commission by its own motion;
2652
2653 3. The City Manager for City initiated requests; or
2654

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- 2655 4. By a petition of one or more property owners of at least 51% of the property owners of an area
2656 proposed for amendment.
2657
- 2658 C. Review Criteria. Proposed future land use map amendments shall be reviewed in accordance with the
2659 requirements of Chapter 163, Florida Statutes, and the following criteria:
2660
- 2661 1. Whether the proposed future land use amendment is consistent with the goals, policies, and
2662 future land use designations of the City Comprehensive Plan;
2663
- 2664 2. The amendment protects the health, safety, and welfare of the community;
2665
- 2666 3. The proposed amendment and all of the consistent zoning districts, and the underlying permitted
2667 uses, are compatible with the physical and environmental features of the site;
2668
- 2669 4. The range of zoning districts and all of the allowed uses in those districts are compatible with
2670 surrounding uses in terms of land suitability or density and that a change will not result in negative
2671 impacts on the community or traffic that cannot be mitigated through application of the
2672 development standards in this Code;
2673
- 2674 5. The site is capable of accommodating all of the allowed uses, whether by right or otherwise,
2675 considering existing or planned infrastructure for roads, sanitary and water supply systems,
2676 stormwater, parks, etc.; and
2677
- 2678 6. Other factors deemed appropriate by the Commission and City Council.
2679
- 2680 D. Effective date of approval. The effective date of a future land use map amendment shall be in
2681 accordance with Chapter 163, Florida Statutes.
2682

Section 3.5.3. Comprehensive Plan Text Amendments

- 2683
- 2684
- 2685 A. Purpose of Amendments. Comprehensive Plan text amendments shall be considered for the following
2686 reasons:
2687
- 2688 1. The amendment clarifies the intent of the Comprehensive Plan.
2689
- 2690 2. The amendment corrects an error in the Comprehensive Plan.
2691
- 2692 3. The amendment addresses changes to state legislation, recent case law, or opinions from the
2693 Attorney General of the State of Florida.
2694
- 2695 4. The amendment implements the Comprehensive Plan.
2696
- 2697 5. The amendment promotes compliance with changes to other city, state, or federal regulations.
2698
- 2699 6. The amendment results in compatible land uses within the future land use designation.
2700

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- 2701 7. The amendment implements findings of reports, studies, or other documentation regarding
2702 functional requirements, contemporary planning practices, environmental requirements, or
2703 similar technical assessments.
2704
2705 8. The amendment promotes the City’s ability to provide adequate public facilities and services.
2706
2707 B. Manner of Initiation. Comprehensive Plan Text Amendments may be initiated in the following
2708 manner:
2709
2710 1. The City Council;
2711
2712 2. The Planning and Zoning Commission; or
2713
2714 3. The City Manager for City initiated requests.
2715
2716 C. Review Criteria. Proposed comprehensive plan text amendments shall be reviewed in accordance with
2717 the requirements of Florida Statutes, Chapter 163, and the following criteria:
2718
2719 1. The amendment is consistent with the goals and policies of the City Comprehensive Plan;
2720
2721 2. The amendment protects the health, safety, and welfare of the community; or
2722
2723 3. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.
2724
2725 D. Effective date of approval. The effective date of a comprehensive plan text amendment shall be in
2726 accordance with Chapter 163, Florida Statutes.
2727

Section 3.5.4. Land Development Code Text Amendments

- 2728
2729
2730 A. Purpose of Amendments. Land Development Code (LDC) text amendments shall be considered for
2731 the following reasons:
2732
2733 1. The amendment clarifies the intent of the LDC.
2734
2735 2. The amendment corrects an error in the LDC.
2736
2737 3. The amendment addresses changes to state legislation, recent case law, or opinions from the
2738 Attorney General of the State of Florida.
2739
2740 4. The amendment implements the LDC or Comprehensive Plan.
2741
2742 5. The amendment promotes compliance with changes to other city, state, or federal regulations.
2743
2744 6. The amendment adds district uses that are consistent with the character of the current range of
2745 allowed uses.
2746

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- 2747 7. The amendment results in providing compatible land uses within Cape Coral.
2748
2749 8. The amendment implements findings of reports, studies, or other documentation regarding
2750 functional requirements, contemporary planning practices, environmental requirements, or
2751 similar technical assessments.
2752
- 2753 B. Manner of Initiation. Applications for a LDC text amendment may be initiated in the following
2754 manner:
2755
- 2756 1. The City Council by its own motion;
 - 2757
 - 2758 2. The Planning and Zoning Commission by its own motion; or
 - 2759
 - 2760 3. The City Manager for City initiated requests, including text amendments associated with a similar
2761 use determination.
2762
- 2763 C. Review Criteria. Proposed LDC text amendments shall be reviewed in accordance with the following
2764 criteria:
2765
- 2766 1. Whether the proposed LDC text amendment is consistent with the goals, policies, and future land
2767 use designations of the City Comprehensive Plan;
 - 2768
 - 2769 2. The amendment results in compatible land uses within a zoning designation;
 - 2770
 - 2771 3. The amendment protects the health, safety, and welfare of the community; or
 - 2772
 - 2773 4. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.
2774
- 2775 D. Effective date of approval. The effective date of a LDC text amendment shall take place upon
2776 adoption.
2777

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CHAPTER 1. DEVELOPMENT REVIEW PROCEDURES

- Section 3.1.1.** Purpose
- Section 3.1.2.** Classification of Development Review Procedures
- Section 3.1.3.** Development Approval Process; Table 3.1.3
- Section 3.1.4.** Application submittals
- Section 3.1.5.** Pre-application meetings
- Section 3.1.6.** Fee Required
- Section 3.1.7.** Complete Applications Required
- Section 3.1.8.** Review for Sufficiency and Code Requirements
- Section 3.1.9.** Decision- making
- Section 3.1.10.** Public Hearing Scheduling and Notice Requirements
- Section 3.1.11.** Public Hearing Procedures
- Section 3.1.12.** Decisions under this Article
- Section 3.1.13.** Conditions on Approvals
- Section 3.1.14.** Appeals

CHAPTER 2. GENERAL REVIEW PROCEDURES

- Section 3.2.1.** All Permits and Approvals

CHAPTER 3. SPECIFIC REVIEW PROCEDURES- ADMINISTRATIVE PERMITS AND APPROVALS

- Section 3.3.1.** Zoning Verification Letter of Flood Verification Letter
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- Section 3.3.3.** Administrative Interpretations and Similar Use Determinations
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- Section 3.3.8.** Site Development Permits
- Section 3.3.9.** Temporary Use Permits
- Section 3.3.10.** Temporary Storage
- Section 3.3.11.** Seasonal Sales
- Section 3.3.12.** Construction Trailers
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- Section 3.3.14.** Temporary sales offices
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- Preliminary Subdivision Plans** (See Article 10)

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- Section 3.4.1.** General Requirements
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- 47 **Section 3.4.4.** Special Exceptions
- 48 **Section 3.4.5.** Vacations of Plats, Easements, and Rights-of-way
- 49 **Section 3.4.6.** Rezones
- 50 **Section 3.4.7.** Planned Unit Developments (PUD)

51

52 **CHAPTER 5. SPECIFIC REVIEW PROCEDURES – LEGISLATIVE APPROVALS**

53

- 54 **Section 3.5.1.** Annexations
- 55 **Section 3.5.2.** Future Land Use Map Amendments
- 56 **Section 3.5.3.** Comprehensive Plan Text Amendments
- 57 **Section 3.5.4.** Land Development Code Text Amendments
- 58 **Plats** (See Article 10)

59

60 **CHAPTER 1. DEVELOPMENT REVIEW PROCEDURES**

61

62 **Section 3.1.1. Purpose.**

63

64 The purpose of this article is to establish the standards and procedures for review and approval of
65 proposed development within the City of Cape Coral, and to provide a development review process that
66 will be comprehensive, consistent, and efficient in the implementation of the goals, objectives, and
67 policies of the City of Cape Coral Comprehensive Plan and this Code.

68

69 **Section 3.1.2. Classification of Development Review Procedures**

70

71 All development applications under this Article are subject to the procedural review requirements in this
72 Chapter, unless otherwise exempted by the terms of this Article. Development applications are classified
73 according to the decision-making authority for each type of application, as set forth below.

74

75 A. Administrative. The following shall be treated as administrative decisions:

76

- 77 1. Zoning and Flood Zone Verification Letters
- 78 2. Certificates of Zoning Compliance
- 79 3. Administrative Interpretations and Similar Use Determinations
- 80 4. Sign Permits (See Article 6)
- 81 5. Lot Splits and Lot Combines
- 82 6. Conditional Uses
- 83 7. Master Concept Plan (PUD) Amendments
- 84 8. Administrative Deviations
- 85 9. Site Development and Subdivision Construction Plans
- 86 10. Preliminary Subdivision Plans (See Article 10)
- 87 11. Site Improvement Permits
- 88 12. Temporary Use Permits
 - 89 a. Special Events
 - 90 b. Temporary Storage
 - 91 c. Seasonal Sales
 - 92 d. Construction Trailers

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- 93 e. Construction Staging Areas and Post Disaster Staging
- 94 f. Temporary Sales Offices
- 95 g. Temporary Retail Sales

96 13. Reasonable Accommodations (See Article 13)

97

98 B. Quasi-judicial. The following shall be treated as quasi-judicial decisions:

99

- 100 1. Deviations (other than Administrative Deviations)
- 101 2. Variances
- 102 3. Special Exceptions
- 103 4. Vacations of Plats, Easements, and Rights-of-way
- 104 5. Rezones
- 105 6. Planned Unit Developments (PUDs) and Master Concept Plans
- 106 7. Appeals

107

108 C. Legislative. The following shall be treated as legislative decisions:

109

- 110 1. Annexations
- 111 2. Future Land Use Map Amendments
- 112 3. Comprehensive Plan Text Amendments
- 113 4. Land Development Code Text Amendments
- 114 5. Plats

115

116 D. Certain buildings, structures, improvements, and installations are exempted by the Florida Building Code
117 from building permit issuance, but must otherwise comply with the minimum requirements of this chapter.
118 Therefore, such buildings, structures, improvements, and installations shall be subject to review under the
119 Site Development Plan or Certificate of Zoning Compliance standards contained in this Article, as well as the
120 regulations of the underlying zoning district.

121

122 E. The Community Development Director shall have the authority to require a certificate of zoning compliance
123 or site improvement permit review for other buildings, structures, improvements and installations that are
124 newly created or come about by changes in the state or local building codes; or other improvements
125 deemed necessary for approval.

126

127 **Section 3.1.3. Development Approval Process; Table 3.1.3**

128

129 Table 3.1.3 shows the development review process, the decision-making authority for each type of
130 development approval; and the appeal authority for each type of decision.

131

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TABLE 3.1.3 DEVELOPMENT APPROVAL AND REQUIRED NOTICE									
Decision Maker							Notice		
D	Director	Recommendation	Decision Maker				Published	Mailed	Posted
HEX	Hearing Examiner								
LPA	Planning and Zoning Commission / Local Planning Agency								
CC	City Council								
SC	Superior Court								
Application Type									
Administrative	Zoning or Flood Zone Verification Letters		D						
	Certificate of Zoning Compliance		D						
	Administrative Interpretations & Similar Use Determinations		D						
	Sign Permits		D						
	Lot Splits and Lot Combines		D						
	Conditional Uses		D						
	PUD Amendments - Minor		D						
	Administrative Deviations		D						
	Site Development and Subdivision Construction Plans		D						
	Preliminary Subdivision Plans		D						
	Site Improvements Permits		D						
	Temporary Use Permits		D						
	Temporary Habitable Structures		D						
	Business Tax Receipts		D						
	Reasonable Accommodations (see Article 13)		D						
Appeals of Administrative Decisions	D	HEX	CC	SC		✓			
Quasi-Judicial	Deviations (Other than Administrative Deviations)	D	HEX			✓	✓	✓	
	Variances	D	HEX			✓	✓	✓	
	Special Exceptions	D	HEX			✓	✓	✓	
	Vacations – Easement/Lot/Plat	HEX	CC			✓	✓	✓	
	Rezones	HEX	CC			✓	✓	✓	
	PUDs	HEX	CC			✓	✓	✓	
	PUD Amendments - Major	D	HEX			✓	✓	✓	
	Appeals of Quasi-Judicial Decisions	D	HEX	SC			✓	✓	✓
Legislative	Annexations	D	CC			✓	✓	✓	
	Future Land Use Map Amendments	LPA	CC			✓	✓	✓	
	Comp Plan Text Amendments	LPA	CC			✓			
	LDC Text Amendments	LPA	CC			✓			
	Final Plats	D	CC			✓			

132
133
134

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Section 3.1.4. Application submittals.

- 135
136
137 A. Unless otherwise indicated by a specific provision of this Article, the applicant for a permit or approval
138 under this Code must be the owner of the property that is the subject of the application or a duly
139 authorized agent of the owner. An applicant who is a contract purchaser must provide proof that the
140 applicant is an authorized agent of the property owner.
141
- 142 1. For rezone and comprehensive plan amendments involving multiple properties or ownerships,
143 the owners of at least fifty-one percent of the number of parcels or the land area included in the
144 application, whichever is greater, must join in the application.
145
 - 146 2. For applications to vacate public rights-of-way or alleys, the owners of all parcels abutting the
147 street or alley or portion thereof to be vacated must join in the application.
148
 - 149 3. For applications to vacate easements, all owners of parcels abutting the easement and all owners
150 entitled to use of the easement to be vacated must join in the application.
151
 - 152 4. For applications to vacate any portion of a platted subdivision, all owners in the subdivision must
153 join in the application.
154
- 155 B. Unless otherwise indicated by a specific provision of this Article or another City ordinance or
156 regulation, applications for permits and approvals under this Chapter shall be submitted to the
157 Community Development Department.
158
- 159 C. Applications shall contain all information required for the type of application being filed and shall
160 include all plans, data, studies, or supporting documents required under this code or specified in the
161 application forms.
162
- 163 D. The Community Development Department shall establish application forms and submittal
164 requirements for all development applications referenced in this Article.
165
- 166 E. Applications for various approvals and permits may be submitted for concurrent or simultaneous
167 review at the option and sole risk of the applicant. This provision shall not apply to any comprehensive
168 plan amendments, rezones, or permit approvals associated with a proposed annexation into the City.
169
- 170 F. Applications for permits or development approvals which have been made available as on-line may
171 be required to file an on-line application only, as determined by the Director.
172
- 173 G. The Community Development Director shall have the authority to require a zoning or site improvement
174 permit review for other buildings, structures, improvements, or installations that are newly created or
175 come about by changes in the state or local building codes; or other improvements deemed necessary for
176 approval.
177
178
179
180

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181 **Section 3.1.5. Pre-application, Preliminary Design Review, and Neighborhood meetings.**
182

- 183 A. Upon request of an applicant, the director may schedule pre-application meetings with applicants and
184 appropriate City staff, for the purpose of reviewing proposed development prior to the formal
185 submission of an application. Applicants are encouraged, though not required, to request a pre-
186 application meeting. A pre-application meeting is required for Planned Unit Development
187 applications.
188
- 189 B. The pre-application meeting shall be informal, and its purpose shall be to discuss the proposals, views,
190 and concepts of the applicant. The purpose is also to discuss whether any additional information will
191 be required. Failure of staff to identify any required permits or procedures at a pre-application
192 meeting shall not relieve the applicant of any such requirements in this code or constitute waiver of
193 the requirement by the decision-making body.
194
- 195 C. At the pre-application meeting staff will:
196
- 197 1. Review the proposed project and any preliminary plans with the applicant.
198
 - 199 2. Discuss and inform the applicant about the zoning requirements relevant to the proposal,
200 information necessary for an application, and the approval process(es) for the project. This does
201 not preclude the department from requesting additional information or waiving certain
202 requirements for information later during the review process.
203
 - 204 3. Advise the applicant whether the proposed project conforms to the Comprehensive Plan or the
205 requirements of this title.
206
- 207 D. Preliminary Design Review Advisory Meetings. Upon request of an applicant, the director may
208 schedule a preliminary design review advisory meeting with applicants and appropriate City staff, for
209 the purpose of reviewing the design and engineering requirements for a proposed development
210 project prior to the formal submission of an application. Applicants are encouraged, though not
211 required, to request a preliminary design review advisory meeting. The substance and process of a
212 preliminary design review advisory meeting shall follow the requirements of pre-application meetings
213 detailed in subsections B and C, above.
214
- 215 E. Any recommendations or determinations reached during a pre-application or preliminary design
216 review advisory meetings are purely advisory and shall not be binding either on the applicant or the
217 City.
218
- 219 F. Applicants are encouraged, though not required, to hold a neighborhood meeting to advise nearby
220 residents of upcoming development applications. The City will provide a list of surrounding property
221 owners for applicants to notify when a neighborhood meeting is scheduled.
222

223 **Section 3.1.6. Fees Required.**
224

225 Each applicant for a permit, approval, or appeal under this Article shall be required to pay any application
226 fee(s) as established by the City Council.

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Section 3.1.7. Complete Applications Required.

- A. Incomplete Applications. No application for a permit, approval, or appeal under this Article shall be accepted or reviewed by staff that does include all required application materials and the required application fee(s). The burden of providing complete and accurate information required by the Community Development Department for each type of application shall be on the applicant.

- B. Determination of Completeness.
 - 1. When an application for development approval is submitted, the director shall make a threshold determination as to whether the application is complete and in conformance with the land uses, density, and intensity allowed by the future land use designation and zoning district classification.

 - 2. All applications shall be reviewed for completeness within ten days of receipt. If the application does not meet the requirements of this Article, the director shall notify the applicant or agent in writing, stating the additional information required or the modification(s) necessary for conformance.

 - 3. No further action shall be taken on the application unless and until the additional information is submitted and determined to be complete by the director. If the incompleteness has not been remedied within sixty (60) calendar days of receipt of notice thereof, the application shall be automatically voided and the director shall return the application to the applicant.

- C. Review. When an application for development approval is determined to be complete, the department shall notify the applicant, and commence detailed review and processing of the application in accordance with this Code.

Section 3.1.8. Review for Sufficiency and Code Requirements.

Once an application is determined to be complete, the Department shall commence detailed review of the application, consult with other agencies, issue comments to the applicant, consult with the applicant as necessary, and determine whether the application and supporting materials are sufficient to proceed forward, as applicable for the type of application for review. For purposes of this section, "sufficiency" shall constitute an analysis of whether a proposed application:

- A. Meets the stated objective requirements of the comprehensive plan, this Code, and the City Code of Ordinances; and

- B. Includes the necessary analysis and information in sufficient detail to enable the decision-making body or official to make the necessary determinations under the comprehensive plan and this Code.

- C. The sufficiency and code requirements set forth herein shall be used by the City to evaluate the demands created on public services and facilities by a proposed development, as required by this code. The following public services and facilities shall be evaluated:

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- 273 1. Drainage facilities;
- 274
- 275 2. Environmentally sensitive lands;
- 276
- 277 3. Fire protection;
- 278
- 279 4. Parks and open space;
- 280
- 281 5. Police protection;
- 282
- 283 6. Potable water;
- 284
- 285 7. Wastewater;
- 286
- 287 8. Solid waste;
- 288
- 289 9. Storm water; and
- 290
- 291 10. Transportation facilities. A traffic impact study is required for any development anticipated to
- 292 generate more than 300 p.m. peak hour average daily trips.
- 293

294 D. If an application is determined to be insufficient, the director shall notify the applicant or agent in

295 writing, stating the additional information required or the modification(s) necessary for conformance.

296

297 E. No further action shall be taken on an application determined to be insufficient unless and until the

298 insufficiency(ies) are resolved, as determined by the director. If the insufficiencies have not been

299 remedied within sixty (60) calendar days, the director may void the application.

300

301 **Section 3.1.9. Decision-making.**

302

303 A. Administrative approvals. Upon determining that an application and all supporting information are

304 sufficient to render a decision, the Director shall take administrative action required by this code and

305 approve the application, approve the application with conditions, or deny the application.

306

307 B. Quasi-judicial and legislative approvals. Upon determining that an application and all supporting

308 information are sufficient to render a decision and any inadequacies have been resolved, the Director

309 shall prepare a report and recommendation to the appropriate decision-making or recommending

310 body.

311

312 **Section 3.1.10. Public Hearing Scheduling and Notice Requirements.**

313 A. Scheduling for consideration. When an application is deemed sufficient pursuant to LDC Section 3.1.8,

314 the Director shall schedule a public hearing for an appropriate date. No application shall be scheduled

315 for consideration by the Hearing Examiner, Commission, or City Council until either:

- 316
- 317 1. All specified insufficiencies have been resolved; or
- 318

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- 319 2. The applicant has elected in writing to proceed notwithstanding the unresolved insufficiencies.
320
- 321 B. Required notice of public hearings. Notice of public hearings shall be provided by publication of an
322 advertisement in a newspaper of general circulation, mailed notice to surrounding property owners,
323 and posting of the development site pursuant to the requirements of this section. Table 3.1.2 depicts
324 the public hearing notice requirements for quasi-judicial and legislative applications under this Code:
325
- 326 C. Website posting. Notices of public hearings for development applications shall be posted on the City
327 of Cape Coral website but failure to post a case on the City website shall not constitute a violation of
328 City noticing requirements. In addition, information about public notice and public hearings may be
329 posted by the City on social media outlets.
330
- 331 D. Publication. Publication of advertisements for public hearings concerning comprehensive plan
332 amendments shall meet the requirements of Chapter 163, Florida Statutes. Publications for public
333 hearings concerning zoning amendments shall meet the requirements of Chapter 166 Florida
334 Statutes.
335
- 336 E. Posting. The application site shall be posted with a notice of the public hearing on a sign provided by
337 the Community Development Department at least ten (10) calendar days in advance of any public
338 hearing. The number and placement of public notice signs should be determined by the Department.
339 The signs shall be removed by the City after a final decision. The failure to remove posted notice after
340 a final decision shall not be deemed a failure to comply with this requirement or be grounds to
341 challenge the validity of any final decision on the application(s).
342
- 343 F. Mailed notice. Notice of a public hearing on a proposed development application(s) shall be mailed
344 to all owners of real property within five hundred (500) feet of the periphery of the site in question,
345 whose names and addresses are known by reference to the latest published ad valorem tax records
346 of the Lee County Property Appraiser.
347
- 348 1. Individually owned multi-family units. When real property consists of individually owned multi-
349 family units, notice shall be given to the homeowner's association, if applicable, all individual unit
350 owners, and all real property owners within five hundred (500) feet. If any area adjacent to the
351 development site is owned by the applicant or any partner listed on the application, the five
352 hundred (500) foot notification boundary shall be extended from these parcels. All property
353 owner associations in the notice area shall be notified.
354
- 355 2. Notice to other jurisdictions. If there are unincorporated lands within 500 feet of the property,
356 Lee County shall also be notified.
357
- 358 3. Applicant responsibility for notice. When the notice radius specified in this section includes
359 property outside of the City limits, the applicant is responsible for obtaining the list of property
360 owners to be notified from the Lee or Charlotte County Property Appraisers and providing this list
361 to the department in sufficient time to comply with noticing requirements. The applicant is
362 responsible for any errors or omissions in the list provided.
363
- 364 4. Content. Generally, all public hearing notices shall contain the following information:

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- 365
- 366 a. The scheduled date, time, and location of the hearing;
- 367
- 368 b. A general description of the nature of the matter to be addressed, written in layman's terms;
- 369
- 370 c. The address of the property;
- 371
- 372 d. That persons may appear and be heard;
- 373
- 374 e. That written comments filed with the department will be entered into the record;
- 375
- 376 f. That the hearing may be continued from time to time as necessary;
- 377
- 378 g. A telephone number and contact for more information;
- 379
- 380 h. The case number or title of the ordinance under consideration, if applicable; and
- 381
- 382 i. Such additional information as may be required pursuant to this code or applicable law for
- 383 specific types of development approval.
- 384
- 385 5. Timing of mailed notice. Notice shall be mailed a minimum ten (10) calendar days prior to the
- 386 date set for the public hearing by first class mail. A copy of the notice shall be available for public
- 387 inspection during regular business hours at the Community Development Department. If the
- 388 application includes a simultaneous future land use map amendment and a rezone, the notice for
- 389 the rezone may be included in the notice required for the land use amendment.
- 390
- 391 G. Electronic Notice. The Community Development Department may, as a courtesy, send electronic
- 392 notice to any persons or organizations in the City, or to any governmental, public, or quasi-public
- 393 organization regarding any matter that may affect the interests of that person or organization, or on
- 394 any matter on which any such person or organization has requested notice. The failure of the
- 395 Department to send such notice or the failure of any resident or property owner to receive such
- 396 courtesy notice shall not affect the validity of the public notice requirements.
- 397
- 398 H. Exceptions to Mailing and Posting. The mailing and posting notice requirements shall not apply to a
- 399 land use map amendment initiated by the Council, in response to a judicial order or compliance
- 400 agreement as described by Section 163.3184(6) and (7), Florida Statutes.
- 401
- 402 I. Continued or Rescheduled Meetings. Notice of subsequent hearings shall be mailed and published in
- 403 accordance with this section for:
- 404
- 405 1. Any hearing for which the Hearing Examiner, Community Development Director, or City Attorney
- 406 determines new notice should be provided, because of the time elapsed from the original notice,
- 407 to correct any defect, or apprise affected parties of significant changes to the application as
- 408 originally noticed;
- 409
- 410 2. Any hearing continued to an unspecified date, time, and place; or

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- 411
412 3. Any hearing where such new notice is required pursuant to applicable law or this Code.
413

414 **Section 3.1.11 Public Hearing Procedures.**
415

- 416 A. General. All public hearings shall be open to the public. Members of the public shall be permitted to
417 testify at all public hearings. A copy of the hearing procedures shall be made available at the hearing.
418 The applicant may withdraw an application by requesting such withdrawal in writing prior to the
419 commencement of the hearing.
420
- 421 B. Record of hearings. The City Clerk shall attend all hearings, and the City shall record (audio, video, or
422 both) all hearings. The City shall retain the original recording(s) in accordance with the laws of the
423 State of Florida, and, if requested, provide a duplicate of the recording(s).
424
- 425 C. Official file. All written communication received by the decision-making body, the Hearing Examiner,
426 or staff concerning an application, the staff report on the application, any petitions or other
427 submissions from the public, and all other documents pertaining to the application shall be filed in
428 the official file for the application, which shall be maintained by staff. The Comprehensive Plan, the
429 City Code of Ordinances, and the Land Development Code shall be deemed to be part of the official
430 file. The official file shall be available for inspection during normal business hours.
431
- 432 D. Order of public hearings. The hearing shall, to the extent possible, be conducted as follows:
433
- 434 1. The Clerk shall read into the record the ordinance or resolution title and number, or the
435 applicant's name, file number, and the subject matter to be decided if there is no ordinance or
436 resolution.
437
 - 438 2. For quasi-judicial hearings, the applicant, staff, and all participants requesting to speak or present
439 evidence or both at the hearing shall be collectively sworn by an oath or affirmation by the Clerk.
440
 - 441 3. The applicant may waive the applicant's right to an evidentiary hearing if applicant agrees with
442 the staff recommendation and no one from the audience wishes to speak for or against the
443 application. The decision-making body may then vote on the item or the Hearing Examiner shall
444 rule on the matter or make a recommendation, based upon the staff report and any other
445 materials contained within the official file. Regardless of a waiver by the applicant, a public
446 hearing shall be held for all decisions requiring an ordinance or resolution.
447
 - 448 4. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the
449 Hearing Examiner or Mayor determines to proceed in a different order, taking proper
450 consideration of fairness and due process:
 - 451 a. The applicant shall make the applicant's presentation, including offering any documentary
452 evidence, and introduce any witnesses as applicant desires. The applicant shall present the
453 applicant's entire case in 30 minutes.
454
 - 455 b. Staff shall present a brief synopsis of the application; introduce any appropriate additional
456

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457 exhibits from the official file that have not already been transmitted to the Hearing Examiner
458 or City Council with the agenda materials, summarize issues; and make a recommendation on
459 the application. Staff shall also introduce any witnesses that it wishes to provide testimony at
460 the hearing. Staff shall present its entire case in 30 minutes.

461
462 c. Public comment. Participants in opposition to or support of the application shall make their
463 presentation in any order as determined by the Chair, Hearing Examiner, or Mayor. Each
464 participant shall present their argument in five minutes.

465
466 d. For hearings on quasi-judicial matters only, the applicant may cross-examine any witness and
467 respond to any testimony presented.

468
469 e. For hearings on quasi-judicial matters only, staff may cross-examine any witness and respond
470 to any testimony presented.

471
472 f. The Chair, Hearing Examiner, or Mayor may choose to allow participants to respond to any
473 testimony if the Chair, Hearing Examiner, or Mayor deems the response to be necessary to
474 ensure fairness and due process.

475
476 g. Members of the Planning and Zoning Commission, Hearing Examiner, or City Council may ask
477 any questions of the staff, applicant, and participants.

478
479 h. Final argument may be made by the applicant, related solely to the evidence in the record.

480
481 i. Final argument may be made by the staff, related solely to the evidence in the record.

482
483 j. For good cause shown, the Planning and Zoning Commission, Hearing Examiner, or City
484 Council may grant additional time to any of the above time limitations.

485
486 k. The Chair, Hearing Examiner, or Mayor shall keep order, and without requiring an objection,
487 may direct a party conducting the direct examination or the cross-examination to stop a
488 particular line of questioning that, in the sole judgment of the Chair, Hearing Examiner, or
489 Mayor merely harasses, intimidates, or embarrasses the individual testifying or being cross-
490 examined; is unduly repetitious or is not relevant; or is beyond the scope of the application
491 or, in the case of cross-examination, is beyond the scope of the testimony by the individual
492 being cross-examined. If the party conducting the direct examination or cross-examination
493 continues to violate directions from the Chair, Hearing Examiner, or Mayor to end a line of
494 questioning deemed improper as set forth herein, the Chair, Hearing Examiner, or Mayor may
495 terminate the direct examination or the cross-examination.

496
497 l. The Planning and Zoning Commission, Hearing Examiner, or City Council may, on its own
498 motion or at the request of any person, continue the hearing to a fixed date, time, and place.
499 The applicant shall have the right to one continuance; however, all subsequent continuances
500 shall be granted at the sole discretion of the Commission, Hearing Examiner, or City Council.

501
502 E. Decisions. For all quasi-judicial hearings in which a decision is made regarding an application for any

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503 development permit, the decision to approve or deny shall be based on whether the application
504 meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the
505 Land Development Code, based on the entirety of the record before the Hearing Examiner or City
506 Council. The Hearing Examiner or Council decisions must be based upon competent substantial
507 evidence in the record.

508

509 F. Rules of Evidence for quasi-judicial hearings.

510

511 1. The decision-making body or the Hearing Examiner shall not be bound by the strict rules of
512 evidence, and shall not be limited only to consideration of evidence which would be admissible in
513 a court of law. The decision-making body or the Hearing Examiner shall have the ability, but not
514 the duty, to conduct site visits in their sole discretion and to consider any evidence so adduced in
515 their deliberations.

516

517 2. The Chair or Hearing Examiner may exclude evidence or testimony that is not relevant, material,
518 or competent or testimony which is unduly repetitious or defamatory.

519

520 3. The Chair, with the advice of the City Attorney, will determine the relevancy of evidence. In
521 matters decided by the Hearing Examiner, the Hearing Examiner, without the advice of the City
522 Attorney, will determine the relevancy of evidence.

523

524 4. Matters relating to an application's consistency with the Comprehensive Plan, the City Code of
525 Ordinances, or the Land Development Code will be presumed to be relevant and material.

526

527 5. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence,
528 but it shall not be sufficient by itself to support a finding unless it would be admissible over
529 objection in court.

530

531 6. Documentary evidence may be presented in the form of a copy of the original, if available. A copy
532 shall be made available to the decision-making body or the Hearing Examiner and to the staff no
533 later than two business days prior to the hearing on the application. Upon request, the applicant
534 and staff shall be given an opportunity to compare the copy with the original. Oversized exhibits
535 shall be copied and reduced for convenient record storage.

536

537 7. Only the applicant, an authorized representative of the applicant, staff, and the decision-making
538 body or the Hearing Examiner shall be entitled to conduct cross-examination when testimony is
539 given or documents are made part of the record.

540

541 8. The City Attorney shall represent the decision-making body and advise it as to procedures to be
542 followed.

543

544 9. The Planning and Zoning Commission, Hearing Examiner, or City Council shall take judicial notice
545 of all state and local laws, ordinances, and regulations and may take judicial notice of such other
546 matters as are generally recognized by the courts of the State of Florida.

547

548 10. Supplementing the record after the quasi-judicial hearing is prohibited, unless specifically

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- 549 authorized by an affirmative vote of the decision-making body, or authorized by the Hearing
550 Examiner, under the following conditions:
551
- 552 a. The supplementation occurs after a quasi-judicial hearing is continued but prior to final action
553 being taken on the application or appeal.
554
 - 555 b. If a question is raised by the Planning and Zoning Commission, Hearing Examiner, or City
556 Council at the hearing which cannot be answered at the hearing, the party to whom the
557 question is directed will submit the requested information in writing to the City Clerk and the
558 decision-making body or Hearing Examiner after the quasi-judicial hearing, with copies to the
559 other parties, provided the hearing has been continued or another hearing has been
560 scheduled for a future date and no final action has been taken by the decision-making body
561 or Hearing Examiner. The information requested will be presented to the decision-making
562 body or the Hearing Examiner at least two business days prior to the time of the continued
563 hearing.
564
 - 565 c. All parties and participants shall have the same right with respect to the additional
566 information as they had for evidence presented at the hearing.
567
- 568 G. Final decision. The City Council or the Hearing Examiner shall reach a written decision without
569 unreasonable or unnecessary delay. The Hearing Examiner shall provide a copy of the decision to the
570 City Clerk for transmission to the applicant, if the applicant is not the City, to the Director of the
571 Department of Community Development, and the City Attorney.
572
- 573 H. The Record. All evidence admitted into the record at the hearing, the official file, and the adopted
574 development order, ordinance, or resolution of the City Council or the written decision of the Hearing
575 Examiner shall be maintained by the City Clerk or the Department of Community Development.
576
- 577 I. Adjournment. The Chairperson, upon a vote of the majority present, or Hearing Examiner, as
578 applicable, may adjourn a hearing to a date certain without the necessity of additional notice.
579 Adjournment to an uncertain date shall require notice as required for the original hearing and by the
580 Land Development Code.
581
- 582 J. Deferrals. If a hearing is concluded, but action is deferred until a future date, formal notice shall not
583 be required prior to action being taken.
584
- 585 K. Joint hearings. Where deemed necessary, joint hearings may be conducted after proper public notice.
586 In such instances, public notice need only be given by one public body, which shall be the City Council
587 in instances where it is one of the hearing bodies.
588
- 589 L. Regularly scheduled public hearing dates. The Hearing Examiner or the City Council may establish
590 regular dates for public hearings on zoning amendments. Such dates, if established by the Hearing
591 Examiner, or the City Council, shall not prevent the Hearing Examiner or City Council from scheduling
592 additional public hearings whenever such public hearings are deemed necessary.
593
- 594 M. Reading of ordinances. Except for ordinances initiated by the City Council which rezone a parcel or

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595 parcels of land involving ten or more contiguous acres, or change permitted, special exception, or
596 prohibited use categories in zoning districts, all ordinances shall be read, either by title or in full, on
597 two separate days at a duly noticed public hearing of the City Council.
598

599 N. The printed agenda for the meeting at which the quasi-judicial hearing is scheduled to take place shall
600 identify the hearing as quasi-judicial and indicate where copies of the procedures that apply may be
601 obtained.
602

Section 3.1.12. Decisions under this Article.

603
604
605 A. When this Article authorizes the Community Development Director, Hearing Examiner, or City Council
606 to make decisions under this Chapter, that decision shall be made pursuant to the specific criteria
607 applicable to the application in Chapter 2 (Specific Review Procedures). If Chapter 2 does not include
608 specific criteria for that type of decision, the Community Development Director or Department,
609 Hearing Examiner, Commission, or Council shall make the decision based on whether the application
610 complies with this Article and any regulations authorized by this Code, and will protect the public
611 health, safety, and welfare.
612

613 B. Unless otherwise indicated in a specific provision of this Article, the Community Development
614 Director, Hearing Examiner, or City Council may approve the application, deny the application, or
615 approve the application subject to conditions as stated in Section 3.1.13, below.
616

617 C. Unless otherwise stated in this Article, or unless a different condition is attached to a permit or
618 approval, permits and approvals granted under this Article are not affected by changes in ownership
619 or tenancy of the property.
620

Section 3.1.13. Conditions on Approvals.

621
622
623 A. The Community Development Director, Hearing Examiner, or City Council may attach conditions to
624 any quasi-judicial permit or approval under this Chapter, provided the condition is required to bring
625 the development proposed in the application into compliance with the requirements of the
626 Comprehensive Plan or the LDC.
627

628 B. The Community Development Director, Hearing Examiner, or City Council may also attach conditions
629 to any quasi-judicial development permit or approval under this Code, provided the condition is
630 necessary to minimize or ameliorate potential adverse impacts of the development proposal. Such
631 conditions shall be reasonably related to the actual or potential impact(s) of the specific use, activity,
632 or structure in question.
633

Section 3.1.14. Appeals.

634
635
636 A. Review by the Director. Applicants for administrative permits and approvals may request a formal
637 review by the Community Development Director of staff decisions, within thirty (30) calendar days of
638 the date the administrative decision was made. The request for review shall be accompanied by any
639 relevant documents related to the review as determined by the Planning Manager or Development
640 Services Manager. The respective manager shall review the relevant standards and present a written

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641 finding to the Community Development Director. The request for review shall be considered by the
642 Community Development Director within 10 days of submittal of a complete request. The Community
643 Development Director may consult with the City Attorney’s office on the matter.
644

645 The Community Development Director shall provide a written determination to affirm the staff
646 decision, grant the relief requested in the review, with or without conditions, or respond to the
647 applicant or respective manager for further information, documentation, or proceedings. The written
648 determination by the Director shall be the final administrative decision.
649

650 B. Appeals of Community Development Director decisions (Administrative Appeal). An applicant desiring
651 to appeal a decision of the Community Development Director, shall, within ten (10) calendar days
652 from the date of such decision, file a written Notice of Appeal with the Department of Community
653 Development. The appeal shall then be heard by the Hearing Examiner at a regularly scheduled
654 meeting, provided there is sufficient time to review the appeal and provide the required public notice.
655 A staff or Director’s recommendation is not a decision and is not appealable.
656

657 C. Appeals from decisions of the Hearing Examiner on Administrative Appeals. Any aggrieved party by a
658 decision of the Hearing Examiner on a administrative appeal may file an appeal to the City Council
659 within 30 days by filing a written Notice of Appeal with the City Clerk. All such appeals shall be based
660 on the record.
661

662 D. Appeals from decisions of the Hearing Examiner on Quasi-judicial matters. Any aggrieved party by a
663 decision of the Hearing Examiner on a quasi-judicial matter may file an appeal to Circuit Court,
664 provided same is done in the manner and within the time provided by Florida Rules of Appellate
665 Procedure.
666

667 E. Appeals from decisions of the City Council. An action to review any decision of the City Council under
668 these regulations may be taken by any person or persons aggrieved by such decision by presenting to
669 the Circuit Court a petition for issuance of a Writ of Certiorari, duly certified, setting forth that such
670 decision is illegal, in whole or in part, certifying the grounds of the illegality, provided same is done in
671 the manner and within the time provided by Florida Rules of Appellate Procedure.
672

673 F. Stay of proceedings. An appeal shall stay all proceedings in the matter appealed from until the final
674 disposition of the appeal by the City Council or Hearing Examiner. The pendency of an appeal shall toll
675 all time periods applicable to the decision which is subject to appeal until final disposition of the
676 appeal by the City Council or Hearing Examiner with regard to the appeal.
677

678 G. Record. The record to be considered in the appeal shall include any application, exhibits, appeal
679 papers, written objections, waivers, or consents considered by staff, the Hearing Examiner, or City
680 Council, as well as transcripts and recordings taken at a public hearing, the Hearing Examiner or City
681 Council minutes, and resolutions or ordinances showing the decision or action being appealed. The
682 record shall also include the record made as a result of any prior applications for development
683 approval on the same property. The City Clerk shall identify all exhibits used at the hearing. All exhibits
684 so identified or introduced shall be a part of the City record.
685

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686 **CHAPTER 2. GENERAL REVIEW PROCEDURES**

687
688 **Section 3.2.1. All Permits and Approvals.**

- 689
690 A. General Requirements for all permit applications.
- 691
- 692 1. Applications for permits or approvals shall be submitted with forms supplied by the Department
- 693 and any required supporting documentation, plans, or materials required by this Code or specified
- 694 in the application form(s).
- 695
- 696 2. Applications shall include any required fee(s) as established by the City Council.
- 697
- 698 3. Incomplete applications will not be accepted.
- 699
- 700 4. Before any use of land, building, or structure is established or any established use of land, building,
- 701 or structure is changed to a different use than that identified in the previously-issued certificate of
- 702 use under the prior LUDR, a certificate of zoning compliance under this code, or a business tax receipt
- 703 for the property, the person seeking to establish the use must obtain a certificate of zoning
- 704 compliance. Failure to secure a certificate of zoning compliance before establishing a use of land,
- 705 building, or structure or before changing the use of the property from the use recognized in a duly-
- 706 issued certificate of use under the prior LUDR or a certificate of zoning compliance under this Code
- 707 to another use, shall be a violation of this Code, and punishable as such.
- 708
- 709 B. Withdrawal of applications. An applicant may withdraw an application at any time by submitting a
- 710 letter of request to DCD or providing testimony of the requested withdrawal in a public hearing.
- 711
- 712 C. Effective date. All permits shall take effect on the day the permit is issued or an approval granted.
- 713
- 714 D. Reliance on permits during pendency of appeals. Any action(s) taken by a permittee during the
- 715 pendency of an administrative or quasi-judicial appeal shall be at the sole risk of the permittee.
- 716

717 **CHAPTER 3. SPECIFIC REVIEW PROCEDURES - ADMINISTRATIVE PERMITS AND APPROVALS**

718
719 **Section 3.3.1. Zoning Verification Letter or Flood Verification Letter.**

- 720
- 721 A. Purpose and Intent.
- 722
- 723 1. Zoning Verification Letter. To provide an official determination of the zoning of specific property
- 724
- 725 2. Flood Zone Verification Letter. To provide an official determination of the FEMA Flood zone, as
- 726 shown on the Flood Insurance Rate Map (FIRM) for specific property.
- 727
- 728 B. Review Criteria.
- 729
- 730 1. The Department will review the applicable City records, maps, and any supporting information
- 731 and issue a Zoning or Flood Zone verification letter.

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- 732
733 2. Verification letters are valid for the date upon which they are issued and may be subject to
734 change.
735

736 **Section 3.3.2. Certificate of Zoning Compliance.**

737
738 A. Purpose and Intent.

- 739
740 1. To determine whether a proposed activity or use is permitted in the zoning district of the property
741 in question, prior to application for a building or site development permit.
742
743 2. To determine whether all structures and site development requirements (e.g., building setbacks,
744 parking requirements, etc.) are in compliance with the requirements of this Code prior to
745 application for or review of a building or site development permit.
746
747 3. Miscellaneous certificates of zoning compliance. The Community Development Director is authorized
748 to approve, approve with conditions, or deny a certificate of zoning compliance for the following
749 buildings, structures, improvements and installations:
750
751 a. Above ground pools that contain water over 24 inches deep;
752
753 b. Agricultural or farm buildings and non-habitable structures on A, Agriculture zoned sites;
754
755 c. Canopy carports, canopies, and other fabric covered framework on residential properties;
756
757 d. Chickee huts constructed by Miccosukee or Seminole Indians;
758
759 e. Chain-link fences, picket fences, ornamental iron fences, and other fences installed on residential
760 property that are deemed non-wind resistant; provided, however, any pool safety barrier fence
761 and any fence with concrete columns shall require a building permit;
762
763 f. Decorative reflective pools and fishponds that contain water less than 24 inches deep, that contain
764 less than 250 square feet in area, and contain less than 2,250 gallons in volume;
765
766 g. Decorative garden-type water fountains and other similar hardscape features;
767
768 h. Portable mini-storage unit, subject to the conditions and limitations of contained in Article 5;
769
770 i. Donation bins, recycling bins, mobile medical, and professional units in accordance with Article 5;
771 and
772
773 j. Anchoring, mooring, docking, or storage of a houseboat.

774
775 C. Review Criteria.
776

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- 777 1. To determine whether the proposed use is a permitted use, a conditional use, or a special
778 exception under this code.
779
- 780 2. Submittals will be reviewed for compliance with applicable code requirements (e.g., parking,
781 setbacks, conditional use criteria, conditions of approval, etc.)
782
- 783 D. Specific Requirements for Certificates of Zoning Compliance.
784
- 785 1. Posting required. The original certificate of zoning compliance shall be posted in a conspicuous
786 location accessible to the public on the business premises at all times.
787
- 788 2. Revocation. The Community Development Director shall notify the holder of any certificate of zoning
789 compliance, in writing, of the City’s intent to revoke a certificate of zoning compliance for any of the
790 following reasons:
791
- 792 a. The City has reasonable grounds to believe that the premises are being used in a manner that is
793 inconsistent with, or contrary to, the provisions of the City Code or any other applicable code or
794 statute.
795
- 796 b. In the event of a conviction of any owner, operator, manager, supervisor, or any employee acting
797 at the direction or with the knowledge of the owner, operator, manager, or supervisor, by a court
798 of competent jurisdiction, for the violation of any criminal statute committed in conjunction with
799 the business operation.
800
- 801 c. It has been ascertained that the holder of the certificate of zoning compliance falsified
802 information on the application for the certificate of zoning compliance.
803
- 804 d. The holder of the certificate of zoning compliance, or the designated manager, operator, or
805 supervisor, refuses to permit an authorized law enforcement officer or code enforcement officer
806 to inspect the premises during normal business hours for the purpose of investigating a
807 complaint which has been filed against the business operation.
808
- 809 E. Notice of revocation. When a notice of revocation is issued it shall state the following:
810
- 811 THE HOLDER OF THE CERTIFICATE OF ZONING COMPLIANCE SHALL HAVE TEN (10) DAYS FROM THE
812 DATE OF THIS NOTIFICATION TO EITHER BRING THE PREMISES INTO COMPLIANCE OR TO REQUEST A
813 HEARING, IN WRITING, BEFORE THE SPECIAL MAGISTRATE.
814
- 815 IF THE VIOLATION IS NOT CURED OR IF NO WRITTEN REQUEST FOR A HEARING IS RECEIVED BY THE CITY
816 OF CAPE CORAL WITHIN TEN (10) DAYS OF THE DATE OF THIS NOTIFICATION BY THE CERTIFICATE
817 HOLDER, THE CERTIFICATE OF ZONING COMPLIANCE SHALL BE CONSIDERED REVOKED.
818
- 819 F. Stay pending hearing. If the holder of the certificate of zoning compliance requests a hearing before the
820 City Council, the certificate of zoning compliance shall remain in effect during the pendency of the action
821 before the City Council.
822

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Section 3.3.3. Administrative Interpretations and Similar Use Determinations.

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- A. Purpose and Intent.
 - 1. To determine whether a proposed use, activity, or site design complies with comprehensive plan.
 - 2. To interpret specific comprehensive plan policies.
 - 3. To interpret whether a proposed use, activity, or site “design” complies with the LDC.
 - 4. To determine how specific code requirements may apply to a site or a development proposal when application of such requirements is not explicitly set forth in the LDC.
 - 5. To interpret the application of conditions of approval.
 - 6. To determine whether a proposed use that is not otherwise classified as a permitted, permitted with special regulations, conditional, or special exception use in a zoning district or is not currently defined in this code may classified as a similar use.
- B. Review Criteria.
 - 1. To determine whether a proposed use activity or site design complies with specific provisions of the comprehensive plan and is in keeping with the spirit and intent of the comprehensive plan.
 - 2. Consistency with LDC.
 - 3. Whether the proposed use or activity complies with DCD policies and procedures.
- C. Similar Use Determinations.
 - 1. Interpretation of Similar Uses. Notwithstanding the requirements of Section 4.4.D., the Director may determine that a specific proposed use may be allowed as a permitted, permitted with specific regulations, conditional, or special exception use in a specific zoning district(s).
 - 2. Similar Use Determination Process.
 - a. A similar use determination may be issued if all of the following findings can be made:
 - i. The characteristics and activities associated with the proposed use are similar to those of one or more of the allowed uses listed in the zoning district and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, or similar impacts than the uses listed in the zoning district;
 - ii. The proposed use will meet the purpose and intent of the zoning district that applies to the location of the use;
 - iii. The proposed use is consistent with the goals, objectives, and policies of the Comprehensive Plan; and

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- 869 iv. The proposed use is not listed a permitted, permitted with specific regulations,
870 conditional, or special exception use in another zoning district.
871
- 872 b. If a similar use determination is approved, the Director shall establish whether the use shall
873 be a permitted use, permitted with specific regulations, a conditional use, or special
874 exception use.
875
- 876 c. Upon approval of a similar use determination, the department shall prepare a text
877 amendment to this ordinance to include the use in the appropriate district, along with any
878 appropriate use regulations.
879

880 **Section 3.3.4. Lots Splits and Lot Combines.**

- 881
- 882 A. Purpose and Intent.
- 883
- 884 1. To provide standards for the split and combination of lots and tax parcels along existing platted
885 lot or parcel lines.
886
- 887 2. To provide standards for the split and combination of lots or tax parcels that do not require a
888 replat.
889
- 890 3. To provide for a one time split of property when the lot split or combine does not require approval
891 as a new subdivision plat or replat.
892
- 893 4. This section shall not apply to unrecorded subdivisions.
894
- 895 B. General Requirements
- 896
- 897 1. All divisions of land in the City shall occur only as a new subdivision plat, a replat, or a lot split.
898 The requirements for subdivisions and replats are set forth in Article 10 of this Code. A lot split
899 that does not meet the requirements of this chapter is deemed a subdivision or a replat and shall
900 be defined and processed as set forth in Article 10.
901
- 902 2. No lot split shall be recognized by the City, no lot that is part of a lot split shall be sold, and no
903 building permit shall be issued unless the lot split has been approved by the City prior to recording
904 in accordance with the requirements of this Article.
905
- 906 C. Review Criteria and Standards
- 907
- 908 1. Whether the lot split or combine creates nonconforming lots and structures.
909
- 910 2. The lot split or combine shall not cause marine improvements to become nonconforming for
911 setbacks or any other standards regarding such structures.
912
- 913 3. Ensure that the lot split or combine does not create split zoning on a parcel.
914

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- 915 4. The newly configured lots parcels must have at least twenty-five feet (25') of frontage on an
916 existing right-of-way, private road, canal, lake, basin, or river. The minimum lot width of the
917 zoning district must be met when measured at the front or rear setback, where applicable.
918
- 919 5. The newly created parcels shall not result in private utility lines crossing property lines.
920
- 921 6. A survey sketch prepared by a professional surveyor and mapper (PSM) indicating the legal
922 description of the parent parcel, boundaries, dimensions, easements, restrictions or agreements
923 affecting the property, rights-of-way, utilities, location of existing buildings, and other pertinent
924 information including wetland boundaries and location of specimen and historic trees. The survey
925 shall be required to be signed, sealed, dated, and certified to the City.
926
- 927 7. Approval and recording. The Community Development Department shall review the proposed lot
928 split for compliance with the criteria listed in this subsection and Article 10, Subdivisions. Once
929 approved the applicant may proceed with the lot split and record the lot split with the Lee County
930 Property Appraiser. Approval shall expire within one (1) year of issuance if not recorded.
931

Section 3.3.5. Conditional Uses.

- 932
- 933 A. Purpose and Intent.
- 934
- 935 1. To provide standards and criteria for review and approval of specified conditional uses for a
936 specific site.
937
- 938 2. To provide reasonable limitations or special conditions for conditional uses, in order to address,
939 minimize, or ameliorate potential impacts of the use on surrounding property and for the
940 protection of the public health, safety, and welfare.
941
- 942
- 943 B. General Requirements. Proposed conditional uses must meet the following requirements:
- 944
- 945 1. The conditional use standards identified in Article 5 for the specific zoning district use and
946 conditional use in question.
947
- 948 2. The proposed conditional use will not result in development that is inconsistent with the intended
949 character of the applicable zoning district.
950
- 951 3. A listed conditional use that does not meet the applicable conditional use standards may apply
952 for approval as a Special Exception.
953
- 954 C. Review Criteria. A Conditional Use may be approved by the Director based on criteria identified in
955 Article 5. These criteria are specific to each conditional use.
956

Section 3.3.6. Administrative Deviations.

- 957
- 958
- 959 A. Purpose and Intent. To grant relief from strict application of LDC requirements to allow minor
960 deviations.

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- B. Scope. Administrative Deviations may be granted for the following:
 - 1. Setback requirements where the setback is not decreased by more than 10% in the applicable zoning district and the encroachment does not extend into an easement, right-of-way, or is an encroachment over the property line for a zero-lot line site.
 - 2. Reduction in the overall required parking by 5%.
 - 3. Landscaping or buffers. Up to a 10 % reduction in the width of required buffers or the required number of trees and shrubs.
 - 4. Preservation of Vegetation. A deviation from the following regulations to accommodate the preservation of existing native specimen tree(s):
 - a. Up to five (5) percent of a required setback; or
 - b. Up to five (5) percent of the required parking spaces.
 - 5. Minor sign deviations as set forth in Article 6 of this code.
 - 6. Maximum lot coverage of impervious surfaces. Up to a 10% increase in the maximum percentage of lot coverage by impervious surfaces, provided the applicant submits calculations by a Florida Registered Professional Engineer showing that the conveyance system for the contributing drainage basin can accommodate the additional stormwater run-off from greater than 60% impervious. A property owner may also add retention storage on-site to compensate for the additional runoff in situations where they propose to exceed 60% impervious surfaces. All such calculations and drainage plans must be approved by the City Public Works Department prior to issuance of any building permits.
- C. Review Criteria. An Administrative Deviation may be approved based on the following criteria:
 - 1. The proposed deviation will not result in development that is inconsistent with the intended character of the applicable zoning district.
 - 2. The normally required code standard(s) is determined to significantly inhibit development of the site.
 - 3. The deviation will not impede the ability of the project or site to adequately provide for service areas and other development features for the project.
 - 4. Access for service and emergency vehicles will not be impeded.
 - 5. The proposed deviations will result in a building and site design of equal or superior quality.
- D. Effective date of approval. A deviation shall take effect upon approval.

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1007
1008 E. If an Administrative Deviation is not approved, the applicant may subsequently apply for a Variance.
1009

1010 **Section 3.3.7. Site Development and Subdivision Construction Plans.**
1011

1012 A. Applicability. The procedures contained in this Section are applicable to all projects involving land
1013 development, including Site Development Plans (SDP) for individual sites, Subdivision Construction
1014 Plans (SCP), and sites without structures such as parking lots. Also included are projects which involve
1015 the construction of any facility, the expansion of a site through acquisition or lease, alteration or
1016 conversion of an existing site or structures, or the change of use of a site or structure where the site or
1017 structure does not meet the current standards or criteria of these regulations. The provisions of this
1018 Section, where appropriate, are to be applied to on-site and off-site development activity. No land
1019 development activity shall commence without obtaining the appropriate approvals and permits
1020 required by this code.
1021

1022 B. Exceptions. The requirements of this section do not apply to:
1023

1024 1. Single-family dwellings; or
1025

1026 2. Duplex dwellings on existing platted lots or parcels.
1027

1028 C. Plan Preparation. A professional engineer registered in the state of Florida shall design all required
1029 improvements such as streets, drainage systems, water and sewage facilities, etc. All plans, drawings,
1030 reports, and calculations shall be prepared, signed, and sealed by the appropriate licensed
1031 professional, such as engineers, architects, landscape architects, professional surveyors and mappers,
1032 or attorneys, registered in the state of Florida. Other specialized consultants, such as environmental
1033 consultants, structural engineers, archaeologists, etc., may be required to assist in the preparation of
1034 the plans, drawings, reports, or other documents required for application submittals.
1035

1036 D. Review Process. The application review and approval process follows the administrative review
1037 procedure as established in Sections 3.1.4 through 3.1.8 of this Article.
1038

1039 E. Criteria. The Development Services Manager may approve, approve with conditions, or deny the
1040 application, after consideration and review of the following:
1041

1042 1. The development, as proposed, conforms to the comprehensive plan and is consistent with the
1043 recommendations of any applicable PUD Master Concept Plan, Preliminary Subdivision Plan, or
1044 master plans which have been approved or accepted by the City Council;
1045

1046 2. The proposed development plans, landscape plans, engineering plans, lighting plans, and other
1047 required plans conform or will conform with all applicable City codes, the Engineering Design
1048 Standards, and design standards as set forth in this code;
1049

1050 3. The development will efficiently use or not unduly burden drainage, water, sewer, solid waste
1051 disposal, education, recreation, or other necessary public facilities which have been constructed
1052 or planned and budgeted for construction in the area;

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4. The development provides sufficient on-site storm water management improvements to meet state water quality and flood protection standards;
 5. The development will efficiently use or not unduly burden or affect public transportation facilities, including mass transit, public streets, roads, and highways which have been planned and budgeted for construction in the area, and if the development is or will be accessible by private or public roads, streets, or highways; and
 6. The development provides necessary and adequate vehicular circulation, pedestrian access, ingress and egress, and is configured in a manner to minimize hazards and impacts on adjacent properties and adjacent rights-of-way.
 7. Projects subject to SDP review comprised of 2 or more parcels with unique strap numbers must be combined into a single parcel with one strap number prior to issuance of the Site Development Permit.
 8. Projects subject to SDP review required to provide easements shall provide executed copies of staff approved easements to the City prior to issuance of the Site Development Permit. The City may require such easements be accepted by City Council and recorded in the public records prior to issuance of the Site Development Permit.
 9. Projects that involve a vacation of plat or release of easement may have review or approval withheld until such vacation or release of easement has been approved or recorded, as determined by the Director.
 10. The City may attach any reasonable conditions, safeguards, limitations, or requirements to the approval of a plan which are found necessary and consistent with the review to effectuate the purpose of this section and to carry out the purpose of this Code and the Comprehensive Plan.
- F. Plats. If the development is a subdivision, a plat meeting the requirements of F.S. Ch. 177, Part 1 and the City of Cape Coral Technical Requirements for Plat Approval, which are hereby incorporated by reference, must be submitted prior to approval of Subdivision Construction Plans. The preliminary plat submittal is not required until after the first round of SCP sufficiency comments, though it may be submitted earlier. Refer to Article 10 Subdivisions.
- G. Plan Approval. Upon successfully addressing departmental comments, the Development Services Manger shall approve the application provided all departmental reviewers have accepted the plans or accepted the plans with conditions. Upon receiving plan approval and meeting any applicable conditions, the issuance of a permit shall be authorization for the applicant to begin those construction activities specifically covered by the plan approval. Construction activities shall not occur before all applicable state and federal permits have also been obtained.
- H. Effect of Plan Approval. Site Development Plans and Subdivision Construction Plans are valid for two years from the date of approval. If a development permit to construct the improvements has not been obtained prior to the expiration date, the approval expires and becomes null and void. An

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1099 applicant may apply for a one-year extension for good cause. Such an extension may be granted for
1100 any plan approved after the effective date of this ordinance and two years prior to adoption. The
1101 extension request must be filed prior to the expiration date of plan approval. If the project is within a
1102 PDP, a PUD, or a phased development, the expiration of plan approvals may differ, as established in
1103 the original approval. See Phased Projects Section 3.3.7.T for addition information regarding expiration
1104 of permits and plan approvals in phased projects.

1105
1106 I. Engineer’s Opinions of Probable Construction Costs. The City shall review and approve all cost
1107 opinions prior to acceptance of same.

1108
1109 1. Inspection fees applied to development permits are based on a percentage of the estimated
1110 construction cost, of Developer installed improvement, to be turned over to the City for ownership
1111 and maintenance.

1112
1113 2. Opinions of Probable Construction Costs shall be prepared, signed, and sealed by the professional
1114 engineer of record.

1115
1116 3. Cost opinions shall be a unit quantity itemized estimate of the required improvements including:
1117 mobilization, material and other testing, survey stake out, and a 10% contingency. Lump sums are
1118 only to be used for items typically not contracted as unit price items.

1119
1120 4. Subdivisions. Cost opinions for subdivision improvements are to be provided as required in Article
1121 10 of this code. The cost of improvements required to support a subdivision that will be turned
1122 over to the City for ownership and maintenance will be utilized in determining inspection fees for
1123 the subdivision infrastructure permit. Cost opinions for assuring the completion of subdivision
1124 improvements shall include, in addition to the items listed above, the cost of providing electrical
1125 service for lift stations, pump stations, or other components that may require electric service to
1126 function and setting PCP’s. upon completion of construction.

1127
1128 J. Amendments. Plan amendments include changes to projects which impact multiple aspects of the
1129 development, may affect multiple plans, and will require multiple departmental reviews to evaluate
1130 the proposed amendment to the plan(s).

1131
1132 1. The amendment process may not be used to substantively modify the scheme of development as
1133 originally approved under an approved SDP or SCP.

1134
1135 2. Proposed amendments that impact a PDP or PUD approval criteria or conditions must receive
1136 approval of an amendment to the PDP or PUD prior to receiving SDP or SCP approval.

1137
1138 3. Amendments may apply to projects that are currently under review, projects under construction
1139 or phased projects that have yet to be completed.

1140
1141 4. The applicant shall submit a letter of intent, the applicable fee, the amended plan(s) and any other
1142 documentation required to review the proposed amendment.

1143

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- 1144 5. The Development Services Manger shall determine if the proposed changes to the plan can be
1145 processed as an amendment, qualify for a lesser review process or requires a greater review
1146 process.
1147
- 1148 K. Revisions. Revisions to an approved plan while under construction which do not increase the gross
1149 square footage of a building or adversely impact compliance with the approved plan, and would not
1150 alter the required infrastructure and improvements necessary to serve the project, may be approved
1151 in writing by the Development Services Manager provided such revisions fully conform to all existing
1152 City regulations. The Development Services Manager will determine if the revision requires an
1153 approved plan revision or if the revision can be shown on the Record Drawings.
1154
- 1155 L. Limited Review. A Limited SDP Review for a new improvement or alteration of existing improvements
1156 to an approved project may be requested. Limited Reviews are for proposed improvements which do
1157 not substantially affect projects minimum technical requirements of this Code or do not require a
1158 review by three or more of the following review disciplines: zoning, planning transportation, drainage,
1159 fire, utilities and landscaping. Changes that exceed the criteria for the scope of a Limited SDP review
1160 as specified in this subsection or, as determined by the Development Services Manager, may be
1161 processed as an amendment or a full SDP review in accordance with this section. Applications
1162 reviewed under this process will be reviewed for compliance with the following general criteria:
1163
- 1164 1. The development must have no significant adverse effect upon surrounding land uses;
 - 1165
 - 1166 2. The development must have no significant adverse effect upon public facilities in the area;
 - 1167
 - 1168 3. The development must not adversely affect the environmental quality of the area; and
 - 1169
 - 1170 4. The development proposal must be consistent with the City Comprehensive Plan.
1171
- 1172 M. Site Improvement Permit. A permit review of minor changes to an existing development which does
1173 not require a separate Site Development Plan review. This permit may be utilized when the existing
1174 project is in full compliance with an approved plan or the site proposed for a minor change meets the
1175 following criteria: Any changes to an approved Site Plan project or SDP will not increase density,
1176 parking requirements, water or sewer usage, or enlarge a structure for human occupancy or assembly
1177 by more than 5% of the existing approved plan. For sites lawfully developed without Site Plan review,
1178 the 5% exception may be applied if the applicant submits all of the information required under SDP
1179 review. Determination of the 5% shall be cumulative based on the originally approved development.
1180
- 1181 1. All infrastructure exists on the site to service the site;
1182
 - 1183 2. Engineering is not required for the proposed change;
 - 1184
 - 1185 3. Parking meets all parking code requirements;
 - 1186
 - 1187 4. The improvement does not significantly alter the traffic circulation system or significantly change
1188 the use of property;
1189

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1190 5. The existing project is in compliance with an approved landscape plan or the code in effect at the
1191 time of the original construction; and
1192

1193 6. The existing project meets all storm water management requirements.
1194

1195 **Section 3.3.8 Site Development Permits.**
1196

1197 A. The Development Services Manager shall be authorized to approve, approve with conditions, or deny
1198 a site development permit for the following improvements and installations:
1199

1200 1. Site Development;
1201

1202 2. Subdivision Infrastructure;
1203

1204 3. Site Improvements;
1205

1206 4. Landscaping;
1207

1208 5. Full Demolition;
1209

1210 6. Parking lot seal coating or re-stripping of existing parking lots;
1211

1212 7. Underground Fire Lines;
1213

1214 8. Utility Service Relocations;
1215

1216 9. Land Clearing and Fill;
1217

1218 10. Relocation of Residential Storm Drains;
1219

1220 11. Backflow Prevention; and
1221

1222 12. Spot Dredging.
1223

1224 B. Review. The Development Services Manger shall act upon applications for site development permits
1225 within 10 calendar days from the date of their submission.
1226

1227 C. Issuance of Permits.
1228

1229 1. All permits will be issued in compliance with the approved plans, if applicable, and may contain relevant
1230 conditions of the associated plan approval.
1231

1232 2. If the proposed construction or alteration conforms with all applicable provisions of this Code and
1233 all other applicable law, the Development Services Manager shall issue a development permit
1234 authorizing such construction or alteration.
1235

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- 1236 3. If the proposed construction or alteration fails to conform, he shall refuse to issue the permit and
1237 shall deliver written notice to the applicant stating the reason for the refusal.
1238
- 1239 D. Effect of Approval, Expiration, and Extensions. A site development permit shall expire six months from
1240 the date of issuance unless the permitted improvements are under construction and have passed a
1241 required inspection within the 90 days prior to the expiration of the permit. Erosion control
1242 inspections will not extend the expiration date. A permit may be extended for an additional 90 days.
1243 Failure to either pass a required inspection or request a permit extension within the 90-day period
1244 provided will result in expiration of the permit. Thereafter, a new permit will be required to
1245 continue construction.
1246
- 1247 E. Commencement of Construction. After approval of the plans, the applicant may construct the required
1248 improvements, subject to obtaining all required permits. The Development Services Manager shall be
1249 notified in advance of the date of commencement of such construction and the applicant shall
1250 schedule a preconstruction meeting where representatives of the developer, the City, contractors,
1251 and franchise utilities shall discuss the construction of the planned improvements. No work shall take
1252 place prior to the preconstruction meeting.
1253
- 1254 F. Inspections and Certification of Compliance. The developer shall retain the engineer of record or another
1255 professional engineer registered in the state of Florida and other professionals, if needed, to inspect
1256 the construction progress and certify the construction of all required improvements such as streets,
1257 parking areas, drainage structures, drainage systems, water and sewer facilities, landscaping and
1258 buffers, and all other improvements, for substantial compliance with the approved plans.
1259
- 1260 G. Right to enter. The Development Services Manager or duly authorized representative shall have the
1261 right to enter upon the property for the purpose of inspecting the quality of materials and
1262 workmanship and reviewing the construction of required improvements during the progress of such
1263 construction.
1264
- 1265 H. Periodic inspection required; correction of deficiencies. The Development Services Manager or his
1266 designated engineering and utility inspectors shall periodically inspect all phases of construction of
1267 streets, drainage improvements and utility installations including those improvements which are not
1268 to be dedicated to the public but are subject to this chapter. The Development Services Manager will
1269 immediately call to the attention of the developer, or the developer's engineer, any nonconforming
1270 work or deficiencies in the work. Correction of deficiencies in the work is the responsibility of the
1271 developer. It is the responsibility of the developer's contractor to schedule the appropriate
1272 inspections as identified on the permit.
1273
- 1274 I. Stop work orders. The Development Services Manager shall have authority to stop work if
1275 improvements not authorized in the approved plan are being installed or upon failure of the applicant
1276 or his engineer to coordinate the construction of the required improvements so as to minimize
1277 activities which may have adverse impacts on surrounding property.
1278
- 1279 1. Authority. Whenever the Development Services Manger finds any work regulated by this code being
1280 performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the
1281 Development Services Manager is authorized to issue a stop work order. In addition, the Development

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1282 Services Manager is authorized to issue a stop work order for the failure to contain or remove
1283 construction refuse as required in the Code of Ordinances, Chapter 9, Health and Sanitation.
1284

1285 2. Issuance. The stop work order shall be in writing and shall be given to the owner of the property
1286 involved, to the owner's agent, or to the person doing the work. Upon issuance of a stop work order,
1287 all work on the construction site shall immediately cease. The stop work order shall state the reason for
1288 the order, and the conditions under which the cited work will be permitted to resume.
1289

1290 3. Unlawful continuance. Any person who shall continue any work after having been served with a stop
1291 work order, except such work as that person is directed to perform to remove a violation or unsafe
1292 condition, shall be subject to penalties as prescribed by law.
1293

1294 J. Final inspections by Engineer of Record. Upon completion of all improvements required under the
1295 approved plans or phase thereof, an inspection must be performed by the developer's engineer and
1296 the landscape architect. Upon finding the development to be completed and in substantial
1297 compliance with the approved plans, the engineer and landscape architect must each submit a letter
1298 of substantial compliance along with record drawings to the City. No final inspection will be performed
1299 by the City until the letter(s) of substantial compliance and record drawings have been accepted. The
1300 letter(s) of substantial compliance may include a description of minor changes as shown on the record
1301 drawings. Only minor changes which do not substantially affect the technical requirements of the
1302 approved plans and this code are to be indicated on the Record Drawings.
1303

1304 1. Letters of substantial compliance shall be digitally signed and sealed in PDF format. Substantial
1305 compliance requires that the development, as determined by an on-site inspection by a
1306 professional engineer, is completed to all the specifications of the approved plans and that any
1307 deviation between the approved plans and actual as-built construction is so inconsequential that,
1308 on the basis of accepted engineering practices, it is not significant enough to be shown on the
1309 Record Drawings.
1310

1311 2. The respective professionals shall prepare and submit to the City digitally signed and sealed Record
1312 Drawings, in PDF format, of the completed project improvements. Record drawings shall be provided
1313 for the complete civil engineering and landscape features of the project.
1314

1315 3. Record drawings shall be the complete set of approved plans which show strikethrough and markup of
1316 the as-built information obtained from direct field observation, survey, or contractor "as-built"
1317 drawings. Topographic surveys will not be accepted.
1318

1319 K. Final Inspections by the City. Upon acceptance of the letter of substantial compliance and record
1320 drawings, the Development Services Manager will perform final inspections.
1321

1322 1. If the final inspections reveal that the development or phase is in substantial compliance with the
1323 approved plans, a certificate of completion will be issued. A certificate of completion is required
1324 prior to the issuance of a certificate of occupancy from the building division for any buildings
1325 associated with the project.
1326

1327 2. If the final inspections reveal that the development or phase thereof is not in substantial

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1328 compliance with the approved plans, a list of all deviations will be forwarded to the engineer. All
1329 deviations must be corrected prior to reinspection. A new letter of substantial compliance may
1330 be required prior to reinspection. Reinspection fees will be charged for each reinspection in
1331 accordance with the adopted fee schedule and must be paid prior to receiving a Certificate of
1332 Completion.

1333
1334 3. Projects involving permits or approvals issues by County, State or Federal agencies shall provide
1335 evidence that the respective agencies have approved, accepted or certified that the improvements or
1336 work subject to their review have been satisfactorily completed and are ready for use or to be placed
1337 into service. The City may withhold final Certifications of Completion or Occupancy pending receipt of
1338 such verification.

1339
1340 L. Turnover of developer installed improvements. Projects that include construction of improvements that will
1341 be turned over to the City for ownership and maintenance must also provide a complete package of
1342 turnover documents, acceptable to the City, as required by the Director.

1343
1344 1. Improvements shall be conveyed to the City by bill of sale in a form satisfactory to the City Attorney,
1345 together with such other evidence as may be required by the City that the improvements proposed
1346 to be transferred to the City are free of all liens and encumbrances.

1347
1348 2. Turnover documents must be provided to the Development Services Manager with the submittal of
1349 the Certification of Substantial Completion and Record Drawings.

1350
1351 3. Improvements constructed pursuant to this Section may not be placed into service or otherwise
1352 utilized until the required certificate of compliance has been issued.

1353
1354 M. Ongoing compliance. A development project must remain in compliance with the approved SDP or
1355 SCP, including all conditions, after a letter of substantial compliance, certificate of compliance, or
1356 certificate of occupancy has been issued by the City. This requirement applies to any property covered
1357 by the SDP or SCP, whether or not it continues to be owned by the original developer. For purposes
1358 of determining compliance, the SDP or SCP as approved and constructed, or subsequently amended
1359 in accordance with this section, will control. The standards applicable to review for compliance
1360 purposes will be based upon the regulations in effect at the time the plan approval, any applicable
1361 amendment, or revision was constructed.

1362
1363 N. Violation of an approved SDP or SCP.

1364
1365 1. Where construction is commenced for improvements not authorized by a SDP or SCP, the
1366 applicant will be issued a stop work order until an application to amend or correct the respective
1367 plan approval has been submitted and approved.

1368
1369 2. An application to amend or correct a SDP or SCP after construction has commenced in violation
1370 of the original approval will be charged an application fee equal to four times the original
1371 application base fee.

1372

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- 1373 3. Submittal of the application and payment of the application fee does not protect the applicant
1374 from the remedies described in Article 1, Section 1-6 of this Code. Any of these forms of relief can
1375 be sought or maintained by the City until the problem is abated.
1376
- 1377 4. Failure to maintain a development in compliance with a SDP or SCP issued and approved by a
1378 certificate of completion constitutes a violation of this Code.
1379
- 1380 O. Phased Projects. Development projects may be split into phases to accommodate the development
1381 plans and schedules of the developer.
1382
- 1383 1. Site Development Plans. The phasing plan shall show all required facilities, infrastructure, and
1384 buildings, if applicable, on the entire parcel that is covered by the SDP approval.
1385
- 1386 a. If more than one building is covered by the SDP and the developer does not intend to
1387 receive certificates of occupancy (CO) for all of the buildings at one time, a separate Site
1388 Development Permit will be required for each build or builds to receive a CO apart from
1389 the other buildings.
1390
- 1391 b. A certificate of compliance for streets, utilities, parking areas, and drainage serving each
1392 building(s) will be required from the engineer of record prior to the City performing final
1393 inspection and closing permit and prior to receiving a certificate of occupancy from the
1394 Building Division.
1395
- 1396 c. If a final inspection is requested for only a portion of a development, that portion must be
1397 an approved phase of the development in accordance with the approved SDP.
1398
- 1399 2. Subdivision Construction Plans. Phasing of the SCP shall be in accordance with the PSP
1400 approval as established in Article 10.
1401

Section 3.3.9 Temporary Use Permits.

- 1402
- 1403
- 1404 A. Purpose and Intent. To authorize the temporary uses and activities which do not exceed specific
1405 time frames:
1406
- 1407 B. General Standards.
1408
- 1409 1. Only those uses that are listed below or otherwise approved as temporary uses in Article 5, may
1410 be allowed as temporary uses.
1411
- 1412 2. Each temporary use shall be evaluated by the Community Development Department for
1413 compliance with the standards and conditions set forth in the LDC and the applicable zoning
1414 district. Special event uses are evaluated by the Parks and Recreation Department.
1415
- 1416 3. A temporary use permit shall take effect at the time of permit issuance and is in effect only for
1417 the specific time-period established in the temporary use approval.
1418

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- 1419 C. Review Criteria. When considering an application for a temporary use, the Community Development
1420 Director or Parks and Recreation Director, as appropriate, shall consider whether and the extent to
1421 which:
1422
- 1423 1. The temporary use is consistent with the purposes, goals, objectives, and policies of the
1424 Comprehensive Plan;
 - 1425
 - 1426 2. The temporary use complies with all relevant and appropriate portions of Article 5, Development
1427 Standards;
 - 1428
 - 1429 3. The temporary use is not incompatible with the character of the immediate surrounding area;
 - 1430
 - 1431 4. The design, duration, and hours of operation of the temporary use minimizes adverse impacts on
1432 nearby properties, including visual and noise impacts;
 - 1433
 - 1434 5. Whether the use complies with all relevant standards related to health, sanitation, and
1435 transportation;
 - 1436
 - 1437 6. The temporary use complies with all other applicable provisions of this Code;
 - 1438
 - 1439 7. Any permanent structures used in conjunction with a temporary use must comply with the
1440 requirement for adequate public facilities referenced in the comprehensive plan; and
 - 1441
 - 1442 8. Whether any public safety detail will be necessary.
 - 1443
- 1444 D. Allowable temporary uses: The following temporary use shall require a permit:
1445
- 1446 1. Temporary storage.
 - 1447
 - 1448 2. Seasonal sales.
 - 1449
 - 1450 3. Construction trailers.
 - 1451
 - 1452 4. Construction staging areas and post disaster debris staging.
 - 1453
 - 1454 5. Temporary sales offices.
 - 1455
 - 1456 6. Temporary habitable structures.
 - 1457
 - 1458 7. Special Events.
 - 1459
- 1460 **Section 3.3.10. Temporary storage.**
1461
- 1462 A. Temporary storage containers are prohibited in any zoning district of the city, except as follows:
1463

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- 1464 1. Residential zoning districts. No more than one temporary storage container per dwelling unit is
1465 permitted in residential zoning districts.
1466
- 1467 2. Non-residential zoning districts. No more than two temporary storage containers are permitted
1468 in non-residential zoning districts. In the case of multi-tenant non-residential properties, each
1469 business or tenant may have a temporary storage container.
1470
- 1471 3. This section is not intended to restrict the storage or location of temporary storage
1472 containers on the premises of a business which is lawfully engaged in the sale, rental, or
1473 distribution of such containers so long as the containers are on the property of such business
1474 as "merchandise" and not for temporary storage of items or goods.
1475
- 1476 4. The provisions of this section shall not apply to prohibit or restrict the location of temporary
1477 storage containers on any property for which a valid City of Cape Coral building permit has
1478 been issued and is in effect provided that the construction on the property has not been
1479 abandoned or allowed to lie idle in violation of Chapter 9 of the City of Cape Coral Code of
1480 Ordinances.
1481
- 1482 B. General Requirements:
1483
- 1484 1. No temporary storage container may be placed in one or more parking spaces if the required
1485 number of parking spaces is reduced below the minimum number of spaces required for the
1486 site.
1487
- 1488 2. No temporary storage container shall block or reduce access to fire lane(s), handicapped
1489 parking area(s), or drainage facilities or structures, including swales and catch basins.
1490
- 1491 3. Temporary storage containers shall not be placed in an easement or in any area designated
1492 as a buffer.
1493
- 1494 4. The maximum size of temporary storage containers shall not exceed ten feet in width, ten
1495 feet in height, or 40 feet in length.
1496
- 1497 5. Non-residential zoning districts. Temporary storage container permits are valid for 30 days.
1498 A maximum of two temporary storage container permits may be issued for a property or, in
1499 the case of multi-use or multi-unit properties, for each business or commercial enterprise
1500 located on the property in any calendar year. Temporary container permits may run
1501 consecutively without any minimum period required to elapse between the issuance of
1502 permits.
1503
- 1504 6. Residential zoning districts. Temporary storage container permits are valid for seven days. A
1505 maximum of two temporary storage container permits may be issued in any calendar year.
1506 Temporary container permits may run consecutively without any minimum period required
1507 to elapse between the issuance of permits. No dwelling unit shall utilize a temporary storage
1508 container for more than 14 days in any 12-month period.
1509

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1510 **Section 3.3.11 Seasonal sales.**

1511

1512 A. Except as provided herein, temporary outdoor seasonal sales of merchandise are prohibited.
1513 Seasonal sales of pumpkins, Christmas trees, or fireworks are permitted when conducted or
1514 sponsored by governmental agencies, nonprofits, charitable or religious organizations, sports,
1515 educational groups, social groups such as garden clubs, and fraternities or sororities. Seasonal sales
1516 of Girl Scout cookies and similar sales are permitted.

1517

1518 B. Permitted seasonal fundraising events involving outdoor sales of merchandise shall meet the
1519 appropriate requirements of the Building Code, Electrical Code, Fire (Life Safety) Code, and
1520 Plumbing Code, particularly regarding temporary sanitary facilities; and are prohibited unless they
1521 received all required permits in compliance with this subsection. Sales of pumpkins, Christmas
1522 trees, or fireworks shall be permitted in all zoning districts except R1, RML, RE, MX7, and PV, . With
1523 the prior approval of the City, such sales may be permitted in accordance with the following
1524 limitations and requirements:

1525

1526 1. Pumpkins may be sold from October 1 through November 5;

1527

1528 2. Christmas trees may be sold from November 15 through January 1;

1529

1530 3. Fireworks may be sold from December 15 through January 1 and from June 1 through July
1531 10;

1532

1533 4. The hours of operation of all such seasonal sales shall be limited to 8:00 a.m. through 10:00
1534 p.m.; and

1535

1536 5. Seasonal sales shall comply with all location and permitting requirements specified in § 3.2.1.

1537

1538 C. In the RMM zoning districts, the City may withhold approval of the seasonal sale if he or she
1539 determines that such sale would result in adverse impacts on the surrounding neighborhood.
1540 Alternatively, the City may place condition(s) on the approval of a seasonal sale in an RMM zoning
1541 district, if such condition(s) are necessary in order to protect the surrounding neighborhood from
1542 adverse impacts which would otherwise result from the seasonal sale.

1543

1544 **Section 3.3.12 Construction trailers.**

1545

1546 A. Construction trailers in residential zoning districts are subject to the following requirements.

1547

1548 1. Construction trailers shall not be connected to potable water and sewer facilities. If the
1549 construction trailer is wired for electricity, the wiring must conform to all applicable city
1550 electric codes.

1551

1552 2. The construction trailer must be removed from the site prior to issuance of a certificate of
1553 occupancy.

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1555 3. No overnight residential use shall be permitted in a construction trailer.

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4. Construction trailers must comply with the setback requirements of the zoning district or the site.
 5. Construction trailers shall not be larger than 200 square feet.
- B. Construction trailers in non-residential zoning districts are subject to the following requirements.
1. When a construction trailer is used as a temporary office, the trailer must be wired for electricity and must be connected to potable water and sewer facilities, if available. Wiring and plumbing must conform to applicable Electric and Plumbing Codes.
 3. The construction trailer must be located at the construction site or an abutting site with the property owner's written permission.
 4. The construction trailer must be removed from the site prior to issuance of a certificate of occupancy.
 5. No overnight residential use shall be permitted in a construction trailer.
 6. Construction trailers must comply with the setback requirements of the zoning district or the site.

1580 **Section 3.3.13 Construction staging areas and post disaster debris staging.**

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- A. Contractor staging for essential public facilities. Contractor staging areas for materials used in construction of essential public facilities are permitted in all zoning districts, subject to the following requirements:
1. The temporary staging area shall serve a project being carried out in the vicinity of the construction staging area;
 2. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;
 3. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through Saturday only.
 4. Fencing is not required but may be installed for security or screening purposes.
 5. No structures other than a permitted construction trailer may be placed on the property.
 6. No outdoor lighting is permitted for any staging area in a residential zoning district.
 7. No jack-hammering, grinding, or crushing of concrete, rebar, or other construction materials is permitted.

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1603 B. Construction staging areas. Construction staging areas are a permitted activity in all zoning districts,
1604 provided the staging area is on the same parcel where construction activity is authorized by a valid
1605 building permit. Construction staging areas on vacant, adjoining, or nearby parcels is prohibited.
1606
1607 C. Post disaster debris staging areas. Post disaster debris staging areas are allowed in all zoning
1608 districts on sites designated by the City for such activity.
1609
1610 D. Post disaster construction staging. Staging areas for post disaster reconstruction efforts are allowed
1611 in all non-residential zoning districts. Post disaster construction staging is allowed in residential
1612 zoning districts as a (special exception/conditional) use.
1613

1614 **Section 3.3.14 Temporary sales offices.**
1615

- 1616 A. Temporary sales offices are mobile structures used only for the sale or lease of units within that
1617 development. For the purpose of this section, units within the development shall mean
1618 residential, non-residential, or mixed use habitable space or leasable floor area, whether
1619 occupying all of a building or individual areas within a building including residential units,
1620 residential or non-residential units, individual units in a multi-unit non-residential development,
1621 or freestanding residential or non-residential structures.
1622
1623 B. Requirements for a temporary sales office. The following requirements must be met prior to the
1624 approval of a temporary sales office:
1625
1626 1. Connection to sewer and water is required. If sanitary sewer and potable water are unavailable
1627 to the site, bottled water and portable sanitary facilities may be utilized until such time as
1628 sanitary sewer and potable water are available. A temporary sales office shall be connected to
1629 such facilities within 90 days of availability or within 90 days of the permitted temporary sales
1630 office, whichever is less.
1631
1632 2. The temporary sales office shall meet the setbacks of the zoning district in which it is located.
1633
1634 3. A temporary sales office shall not be used as a place of habitation or abode by any person(s),
1635 and shall not be used or occupied for business, office, or other purpose(s) at any time except
1636 between the hours of 7:00 a.m. and 9:00 p.m.
1637
1638 4. A minimum of three paved off-street parking spaces shall be provided for the temporary sales
1639 office.
1640
1641 5. The entrance to the site on which the temporary sales office is located shall consist of a city
1642 approved driveway or construction entrance. Any impervious area added for the temporary
1643 sales office shall be subject to review and approval by the city.
1644
1645 6. The base of any temporary sales office shall be fully obscured by landscaping and skirting.
1646 Shrubs must be planted on 30-inch centers and have a minimum planted height of two feet.

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1647 The type of irrigation, if applicable, must also be provided on the plan. Erosion shall be
1648 minimized and prevented to the extent practicable around any disturbed area.
1649

1650 7. The maximum duration of the permit shall not exceed one year. The Director may extend
1651 permits for up to six months each, based upon factors that include:

1652 a. Size of the project.

1653 b. Number of lots or units in the development remaining to be sold or leased.

1654 c. Effect that the extension would have on the surrounding properties.

1655 d. Developer's need for an extension and efforts, if any, the developer has put forward
1656 toward completion of the development (e.g., effort to complete construction in a timely
1657 manner, delays beyond the reasonable control of the developer, etc.).
1658

1659 8. A temporary sales office shall be removed no later than the date the development is completed
1660 or within 30 days after notice by the city that the application for development has been denied,
1661 whichever is applicable.
1662

1663 C. Permit application and submittal requirements. A permit shall be required for a temporary sales
1664 office. In order to obtain a permit for the use of a structure for a temporary sales office, the
1665 applicant shall submit the following to the Department of Community Development:
1666

1667 1. A scaled drawing of the site, identifying the location of the temporary sales office with
1668 dimensions. Construction plans shall also be submitted.
1669

1670 2. The names of the property owner and the operator of the temporary sales officer. In the
1671 event the operator is different from the property owner, written and notarized consent from
1672 the property owner must be submitted. Such written consent shall be revocable. In the event
1673 such consent is revoked, the temporary sales office shall be removed within 30 days.
1674

1675 3. The length of time the temporary mobile sales office is proposed for the site.
1676

1677 4. The description of potable water and sanitary facilities that will be available for the
1678 temporary office.
1679

1680 D. Inspection by city officials. In order to ensure compliance with all applicable laws and regulations,
1681 the temporary sales office shall be held open for reasonable inspection, without court order, by
1682 employees or agents of the City of Cape Coral or any other duly authorized governmental agency.
1683

1684 **Section 3.3.15 Temporary Habitable structures.**
1685

1686 A. Purpose and intent. The purpose of this ordinance is to provide a means by which residents,
1687 business owners, governmental agencies, and medical facilities are able to live and conduct
1688 business on the same site as their damaged structure using temporary housing and temporary
1689

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1693 business structures. When disasters result in significant destruction rendering homes and
1694 businesses uninhabitable, temporary housing and temporary business structures will provide
1695 residents and businesses with the ability to quickly resume normal activities during the restoration
1696 of their permanent structures.
1697

1698 B. Definitions. Terms used in this subsection shall have the meanings as defined in Article 11,
1699 Definitions, unless the context clearly indicates or requires a different meaning.
1700

1701 C. Declaration of habitable structure emergency. Following a disaster, the city shall evaluate the
1702 effect of the disaster on the public health, safety, and welfare. If the City Council finds that the
1703 disaster has negatively affected residential housing or business structures in the city by a
1704 significant degree, the City Council may, by a majority vote, declare the existence of a habitable
1705 structure emergency. Upon the declaration of a habitable structure emergency by vote of the
1706 City Council, the provisions of this subsection shall become effective. The habitable structure
1707 emergency shall identify the disaster which created the emergency situation, and may be
1708 declared for either a specified period of time or an indefinite period of time. If the emergency is
1709 for an indefinite period of time, the emergency shall continue until City Council, by a majority
1710 vote, terminates the habitable structure emergency.
1711

1712 D. Habitable structure emergencies. During a habitable structure emergency, the city will allow, in
1713 accordance with the provisions set forth herein, the use of temporary structures. Temporary
1714 residential structures and temporary business structures must be approved by the city with a
1715 temporary placement permit. Application and issuance criteria for a temporary placement permit
1716 are as set forth below.
1717

1718 E. Temporary business structures may be used for business owners to provide a means for a business
1719 to remain open during the time the permanent business structure is being repaired or replaced.
1720 Temporary business structures may be used to provide temporary facilities for governmental uses,
1721 critical public facilities, charitable, religious, or educational institutions that have been rendered
1722 uninhabitable. The regulations for temporary business structures shall apply to temporary business
1723 structures used for governmental uses, critical public facilities, charitable, religious, or educational
1724 institutions. For these institutions, the habitable structure regulations shall apply; however, the
1725 Building Official may waive any regulations when strict enforcement may preclude them from
1726 carrying out their normal or emergency functions. Critical facilities shall be limited to the following:
1727

- 1728 1. Federal, state, regional, or local government facilities;
- 1729
- 1730 2. State, county, or local emergency operations centers;
- 1731
- 1732 3. Police, fire, and emergency medical facilities;
- 1733
- 1734 4. Radio and television stations;
- 1735
- 1736 5. Public, semi-public, and privately-owned utilities;
- 1737

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- 1738 6. Hospitals, emergency medical care facilities, infusion centers, dialysis centers, physician's
1739 offices; and
1740
1741 7. Nursing homes and assisted living facilities.
1742
1743 F. Temporary placement permit. Following the declaration of a habitable structure emergency, a
1744 property owner may apply for a temporary placement permit (TPP) to locate onsite while the
1745 permanent structure is being repaired or rebuilt. A temporary placement permit (TPP) may be
1746 considered by the Building Official when the following criteria are met:
1747
1748 1. The existing permanent habitable structure has been determined to be uninhabitable as the
1749 result of a disaster by inspection of the city Building Official;
1750
1751 2. The property owner or occupant of a damaged structure desires to locate in a temporary
1752 residential or business structure; and
1753
1754 3. A habitable structure emergency must be in effect at the time of application.
1755
1756 G. Applications for temporary placement permits.
1757
1758 1. Application forms and required fees.
1759
1760 2. The following permits are required prior to application for a TPP:
1761
1762 a. City permits for hook-up to electric, potable water, and wastewater utilities; and
1763
1764 b. A State Department of Health or State Department of Environmental Protection permit
1765 authorizing the connection of the temporary residence to an onsite or small domestic
1766 wastewater treatment system.
1767
1768 H. Time limits. Temporary structures may be located for a period not to exceed 30 days. At the end
1769 of that 30-day period, if no application has been filed, the temporary habitable structure must
1770 be immediately removed from the site. If an application has been filed within the 30-day time
1771 period, the temporary habitable structure may remain in place until the TPP is either approved
1772 or denied. Once approved, the temporary habitable structure may remain in accordance with the
1773 TPP. If denied, the temporary structure shall be removed within five days from the date of denial.
1774
1775 I. Terms of use of temporary habitable structures. Applicants for a temporary habitable structure
1776 shall be subject to the following:
1777
1778 1. Except as otherwise provided herein, temporary structures shall not be occupied until such
1779 time as a valid TPP has been issued and is in effect for the site.
1780
1781 2. Connection to sanitary sewer and potable water, or onsite water and wastewater facilities,
1782 and an external electrical system are required within 20 days of issuance of the TPP.
1783 Inspections for such connections shall be called into the city within two days of completion

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1784 of each connection. Electrical and plumbing connections must be done by electricians or
1785 plumbers licensed to do business in the City of Cape Coral.

1786
1787 If there is no electricity to the site due to a power outage, a generator may be used. Upon
1788 restoration of electricity to the property, connection to the local power grid must be made
1789 within 24 hours of power restoration.

1790
1791 3. An application for a building permit is required within three months from the date of
1792 issuance of the TPP for temporary residential structures or within six months for temporary
1793 business structures. Failure to apply for a building permit within the required time shall deem
1794 the TPP revoked pursuant.

1795
1796 4. If a building permit application has not been submitted within the required time-frames, an
1797 applicant may petition City Council for relief from the time restrictions of this subsection.
1798 City Council shall determine whether the failure to apply for a building permit is due to good
1799 cause shown by the applicant. If City Council denies the request for relief, the temporary
1800 structure shall be removed from the site within ten days from the date of denial, or at the
1801 end of the initial three-month period for temporary residential structures, or at the end of
1802 the initial six-month period for temporary business structures, whichever is later.

1803
1804 5. Temporary habitable structures with a TPP may be used until the earlier of: 1) completion of
1805 the rehabilitation or reconstruction of the damaged structure; or 2) until such time as the
1806 owner or occupants of the damaged structure are established in a permanent structure at
1807 another location.

1808
1809 6. Occupants must comply with all mandatory hurricane evacuation requirements.

1810
1811 J. Temporary structures. Temporary habitable structures must comply with the following:

1812
1813 1. Temporary residential structures may consist of a recreational vehicle or a travel trailer.
1814 Temporary business structures may consist of recreational vehicles, travel trailers, or mobile
1815 offices. At the discretion of the Building Official, additional types of temporary business
1816 structures may be allowed, consistent with applicable federal, state, and local regulations and
1817 the provisions of this ordinance.

1818
1819 2. Must meet all applicable National Fire Protection Association and Life Safety codes and
1820 regulations as well as all applicable state and local requirements for tie-downs.

1821
1822 3. Shall contain plumbing (both water and wastewater) and electrical connections and shall be
1823 capable of being hooked up or attached to external plumbing and electrical systems. Temporary
1824 residential structures shall contain a kitchen capable of being hooked up or attached to external
1825 plumbing and electrical systems. Requirements for temporary business structures shall be
1826 based upon the proposed use.

1827
1828 4. Shall meet the Florida Accessibility Code for building construction amenities.

1829

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- 1830 K. Placement of temporary habitable structures. The following site considerations are required for
1831 placement of a temporary habitable structure:
1832
- 1833 1. Temporary residential structures may be anywhere on the site of the existing permanent
1834 residence; however, no a temporary residence is allowed within road rights-of-way or
1835 drainage or utility easements. The city may waive any development regulations regarding lot
1836 areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
1837 temporary residential structures.
1838
- 1839 2. Where more than one existing permanent residence has been rendered uninhabitable, the
1840 Building Official may allow up to the number of damaged permanent residences or residential
1841 units on the site. Such determination shall be based upon consideration of life, health, and
1842 safety requirements.
1843
- 1844 3. For temporary business structures:
1845
- 1846 a. Temporary business structures may be anywhere on the parcel of the existing business;
1847 however, temporary business structures are not allowed within road rights-of-way or
1848 drainage or utility easements. The city may waive any development regulations regarding
1849 lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
1850 temporary business structures.
1851
- 1852 b. Temporary business structures may be on property adjacent to the permanent business
1853 structure if a notarized, written consent from the property owner is submitted at the
1854 time of application for a TPP.
1855
- 1856 c. The establishment of an emergency response team center on a parcel containing a
1857 business does not necessarily preclude the placement of one or more temporary business
1858 structures on the same parcel.
1859
- 1860 d. Parking for a temporary business structure shall be provided based upon the square footage
1861 of the temporary business structure, including handicapped parking. However, a minimum
1862 of two handicapped parking spaces must be provided.
1863
- 1864 e. The entrance to the site shall have a city approved driveway or construction entrance.
1865 Any impervious area added for the temporary business structure shall be subject to
1866 review and approval by the city.
1867
- 1868 f. Additional conditions or restrictions may be placed on a temporary business structure as
1869 a condition of issuance in areas including, but not limited to, the following:
1870 i. Hours of operation;
1871 ii. Traffic control and access;
1872 iii. Lighting; and
1873 iv. Noise control.
1874

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- 1875 L. Issuance and revocation. The Building Official may revoke a TPP upon finding that any of the
1876 following has occurred:
1877
- 1878 1. Failure to connect to water, sewer, and electrical within 20 days of the receipt of the TPP.
1879
 - 1880 2. If an application for a building permit has not been submitted within required time from the
1881 date of receipt of the TPP, or relocation has not occurred before the time of expiration of the
1882 TPP, or, if a building permit later expires.
1883
 - 1884 3. If, upon inspection by the Building Official, a temporary residence is not in compliance with
1885 the requirements of this subsection.
1886
 - 1887 4. Failure to evacuate temporary residence during mandatory evacuation orders.
1888
 - 1889 5. Upon revocation of a TPP, the temporary residence must be vacated and the temporary
1890 residence removed within five days of revocation. Failure to vacate or remove the temporary
1891 residence constitutes a violation subject to the penalty imposed herein.
1892
- 1893 M. Extensions and expiration of temporary placement permits.
1894
- 1895 1. Residential TPPs shall be valid for six months from the date of issuance. The Building Official
1896 may, for good cause shown, issue up to two extensions for six months each, for an 18-month
1897 maximum period of validity from the date of issuance.
1898
 - 1899 2. Non-residential TPPs shall be valid for nine months from the date of issuance. The Building
1900 Official may, for good cause shown, issue up to two extensions for six months each, for a 21-
1901 month maximum period of validity from the date of issuance.
1902
 - 1903 3. All applications for extensions of time must be submitted prior to the date of expiration of
1904 the current TPP.
1905
 - 1906 4. Any further extensions after the second extension and maximum time period may not be
1907 issued by the Building Official: however, applicants may submit a request to City Council for
1908 their approval of any further extension of time for the TPP.
1909
 - 1910 5. Factors to be considered by the Building Official or the City Council in determining whether
1911 to grant an extension of time of the TPP shall include:
1912
 - 1913 a. The ability of the property owner or occupant of the temporary residential or business
1914 structure to secure permanent quarters; and
1915
 - 1916 b. Any hardship that, in the opinion of the Building Official or City Council, as applicable,
1917 would warrant a further extension of the TPP.
1918
 - 1919 6. Upon the, expiration of a TPP, a temporary residence or business structure must be removed
1920 or placed in proper storage on the property within 30 days. Failure to remove or properly

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1921 store the temporary residence or business structure constitutes a violation subject to the
1922 penalty imposed herein.

1923
1924 7. Termination of temporary habitable structure. Once an uninhabitable structure has been
1925 issued a certificate of occupancy or certificate of use for a new or rehabilitated residence,
1926 business, or institutional facility, the TPP shall be deemed to be terminated. A temporary
1927 residential or business structure must then be removed or placed in proper storage on the
1928 property within 30 days. Failure to remove or properly store the temporary residence or
1929 business structure constitutes a violation subject to the penalty imposed herein.

1930
1931 8. Penalty. Any violation of the provisions of this subsection shall be subject to a \$500 fine. Each
1932 day of violation shall constitute a separate offense and shall be punishable as such.

1933
1934 **Section 3.3.16 Special Events.**

1935
1936 A. Special events in the city are administered and permitted by the Parks and Recreation Department.

1937
1938 B. Application and general requirements. Special events permits may be issued provided the following
1939 requirements are met:

1940
1941 1. A completed, signed, and notarized application shall be submitted no less than 60 days prior to
1942 the opening of the event. The application shall include the name and address of each applicant
1943 sponsoring the special event, the dates, times, and specific details of the event, and a list of all
1944 special events that the applicant has sponsored in the City for the past three years. Exceptions
1945 to the 60-day requirement may be approved by the Director of Parks and Recreation based on
1946 the size, duration, or nature of the event. The city reserves the right to verify the applicant's
1947 previous history of sponsoring special events with other jurisdictions.

1948
1949 2. A refundable clean-up deposit is submitted. The property shall be cleaned within 48 hours of
1950 the close of the event and returned to substantially the same condition that existed just prior
1951 to the start of the event or better. The clean-up deposit will be refunded upon satisfactory
1952 inspection of the property by the city after the event closes. If the property is not returned to
1953 substantially the same condition that existed just prior to the start of the event, or better, the
1954 city, in its sole discretion, may utilize the clean-up deposit to do so and refund the remainder,
1955 if any, to the applicant.

1956
1957 3. A site plan of the event venue and surrounding property shall be submitted. The site plan
1958 shall show the layout of all activities, such as stages, equipment, including location(s) where
1959 sound amplification equipment, if any, will be allowed, amusement rides, animal displays,
1960 etc., and all support facilities including egress and ingress locations, parking, refuse
1961 collection, sanitation, and lighting. The site plan shall also identify the presence of any
1962 environmentally sensitive issues including eagles, burrowing owls, tortoises, osprey, etc.

1963
1964 4. If the applicant does not own the property for the special event or associated parking, a signed
1965 and notarized letter of permission from the property owner is required, along with a release
1966 and indemnification agreement in a form accepted by the City Attorney. If the applicant intends

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- 1967 to transport patrons to the special event from a specified parking area, complete details
1968 including all traffic routes to be utilized shall be submitted to the city for approval.
1969
1970 5. Insurance requirements.
1971
1972 a. Certificates of insurance for all properties used for the event must be submitted to the
1973 Parks and Recreation Department for approval by the City Risk Manager no less than 21
1974 days prior to the event.
1975
1976 b. Applicants and vendors shall have commercial and general liability insurance, including
1977 coverage for independent contractors, premises and operations, contractual liability,
1978 products and completed operations, personal injury, and property damage. Insurance
1979 coverage shall be no less than \$1,000,000 combined single limit for bodily injury and
1980 property damage and no less than \$1,000,000 for liquor liability, if applicable.
1981
1982 c. Vendors shall also have motor vehicle liability insurance of no less than \$1,000,000 per
1983 vehicle and worker’s compensation coverage as required by statute.
1984
1985 d. The City of Cape Coral shall be named as additional insured. Certificates of insurance shall
1986 show the City of Cape Coral as the certificate holder.
1987
1988 6. All applicable city ordinances and building, fire, and electrical codes shall be complied with.
1989
1990 7. Most events shall require off-duty City of Cape Coral police officers to be hired for the
1991 duration of any event to include one hour before opening and one hour after closing. The
1992 Police Chief shall determine the exact number of officers required, if any, based upon the
1993 size and nature of the event and past experience with similar events. The cost for the off-
1994 duty detail shall be set using the present rate charged by the Police Department which shall
1995 be paid by the applicant prior to the issuance of the permit. All applicants must comply with
1996 any rules or regulations imposed by the Police Chief which are consistent with this section.
1997
1998 8. Most events shall require off-duty City of Cape Coral firefighters or paramedics, to be hired
1999 for the duration of any event to include one hour before opening and one hour after closing.
2000 The Fire Chief shall determine the exact number of firefighters or paramedics required, if
2001 any, based upon the size and nature of the event and past experience with similar events.
2002 The cost for the off-duty detail shall be set using the present rate charged by the Fire
2003 Department which shall be paid by the applicant prior to the issuance of the permit. All
2004 applicants must comply with any rules or regulations imposed by the Fire Chief which are
2005 consistent with this section. In the event the Fire Chief determines that special equipment
2006 such as all-terrain vehicles, trailers, fireboats, fire and rescue assets, and appropriate
2007 personnel for the special equipment are necessary, the city reserves the right to request
2008 reimbursement for all or part of the discretionary cost from the applicant.
2009
2010 9. No open flame or other device emitting flames or fire shall be used in any tent or air
2011 supported structure while open to the public.
2012

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10. All equipment including tents, stages, amusement rides, utility areas, ingress and egress points, and cooking areas shall be inspected and approved by city fire inspectors or state officials, if applicable, prior to the opening of the event. If applicable, inspection certificates and annual permits as required by the State of Florida, shall be submitted to the city prior to the opening of the event. All equipment or amusement rides, other than those which are patron-operated or controlled, shall only be operated by persons over 18 years of age who are employed by the applicant and who are thoroughly familiar with the operation of said equipment or amusement rides. The operator of such equipment or amusement rides shall be in the immediate vicinity of the operating controls at all times during the operation of the equipment or amusement rides and no unauthorized person shall be permitted to handle the controls during operation.
 11. Any person, entity, group, or organization engaging in speech, expression, or assembly, which is protected by the First Amendment of the United States Constitution or by Article I, Section 4 of the State of Florida Constitution, may do so during a Special Event, subject to the following reasonable time, place, and manner regulations.
 12. If sound amplifying equipment is present on public or private property at the special event, the Director of Parks and Recreation shall establish one or more designated areas where such amplified sound may occur. If amplified sound is not permitted for the special event, all amplified sound shall be prohibited; however, nothing in this regulation shall serve to prohibit protected speech, expression, or assembly utilizing non-amplified, reasonable sound. For purposes of this paragraph, amplified sound caused by the police or fire departments of the city in the performance of their official duties, and public background sound, shall not be considered amplified sound so as to allow others to use sound amplifying equipment.
 13. The Director of Parks and Recreation shall be responsible for the provisions of this section, department rules and regulations, and city ordinances. No action shall be taken to enforce this section until a warning to cease such a violation has been issued by a person authorized to enforce this section and the violator continues such violation.
 14. No person shall be permitted into, or remain on, private property covered by any special event permit for an event open to the public without the consent of the permittee.
 15. If a special event is open to the public only upon a payment of an entry fee or charge, no person shall be permitted into the special event without first paying the entry fee or charge.
 16. No person shall unreasonably hamper, obstruct, impede, or interfere with any person, entity, group, or organization hosting a permitted special event.
 17. All requirements of this section are subject to modification or waiver by the City Council based upon the size, duration, nature of the event, and the city's involvement.
- C. Review Criteria. In determining whether a permit shall be issued, the Director of Parks and Recreation shall consider certain criteria including:

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1. The size, duration, and nature of the event;
2. Previous history of organizing one or more events within the City and whether any events created hazards or safety situations;
3. Other events previously scheduled during the same time period within the city; and
4. If the applicant has been adjudicated guilty of violating any provision of this section. Any adjudication may constitute grounds for denial of future special events permits by the city.

D. Permit Decision.

1. The Director of Parks and Recreation may, in his or her sole discretion, deny the applicant a permit for the special event within the City of Cape Coral.
2. The Director of Parks and Recreation shall have the authority to designate one or more areas during any Special Event for specific activities and to prohibit other activities within designated areas. Designated areas shall be posted when such posting is appropriate.
3. Order to cease operation. If the Director of Parks and Recreation Department determines that proper provisions have not been made for the protection of the public health, safety, or welfare he or she may issue an order to cease operating said special event until such time as satisfactory corrective action has been taken.

E. Violations and Penalties.

1. Intentional underestimation of the expected number of persons attending the event or failure to comply with any provision of this section, shall constitute a violation of this section, and shall subject the applicant to the code enforcement provisions and procedures provided in §§ 2-81 through 2-96 of the City of Cape Coral Code of Ordinances including any and all provisions that allow the city to seek relief as otherwise provided by law.
2. Penalty. A violation of this section shall be punishable by a minimum fine of \$100 and a maximum fine of \$500, in addition to the taxation of any court costs, or imprisonment for a term not to exceed 60 days, or by both a fine and imprisonment.

CHAPTER 4. SPECIFIC REVIEW PROCEDURES - QUASI-JUDICIAL PERMITS AND APPROVALS

Section 3. 4.1 General Requirements

Effective Date. All quasi-judicial permits where the Hearing Examiner issues the final decision shall take effect on the date the Hearing Examiner Order for the application in question is recorded in the public record.

Section 3.4.2 Deviations

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- 2105
2106 A. Purpose and Intent. To grant relief from strict application of LDC requirements to allow minor
2107 deviations.
2108
2109 B. Scope. Deviations may be granted for the following:
2110
2111 1. Non-residential design standards in Article 5, Chapter 8.
2112
2113 2. Landscaping deviations in Article 5, Chapter 5, which do not qualify for an administrative
2114 deviation.
2115
2116 3. Design standards in the NC district.
2117
2118 C. Review Criteria. A Deviation may be approved based on the following criteria:
2119
2120 1. The proposed deviation will not result in development that is inconsistent with the intended
2121 character of the applicable zoning district.
2122
2123 2. The normally required code standard(s) is determined to significantly inhibit development of the
2124 site.
2125
2126 3. The deviation will not impede the ability of the project or site to adequately provide for service
2127 areas and other development features for the project.
2128
2129 4. Access for service and emergency vehicles will not be impeded.
2130
2131 5. The proposed deviations will result in a building and site design of equal or superior quality.
2132
2133 D. Effective date of approval. A deviation shall take effect upon approval by the Hearing Examiner.
2134

2135 **Section 3.4.3 Variances.**

- 2136
2137 A. General.
2138
2139 1. A variance may be sought from any bulk, area, or dimensional standard contained in Article 4,
2140 Zoning Districts or Article 5, Development Standards of the LDC.
2141
2142 2. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no
2143 permitted use of land, structures, or buildings in other districts, shall be considered grounds for
2144 the issuance of a variance.
2145
2146 B. Approval Criteria. In order to authorize a variance, the Hearing Examiner must find that the application
2147 meets all of following criteria:
2148

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- 2149 1. That special conditions and circumstances exist which are peculiar to the land, structure, or
2150 building involved and which are not applicable to other lands, structures, or buildings in the same
2151 zoning district;
2152
2153 2. That the special conditions and circumstances do not result from the actions of the applicant;
2154
2155 3. That granting the variance requested will not confer on the applicant any special privilege that is
2156 denied by these regulations to other lands, buildings, or structures in the same zoning district;
2157
2158 4. That literal interpretation of the provisions of the regulations would deprive the applicant of rights
2159 commonly enjoyed by other properties in the same zoning district under the terms of these
2160 regulations and would cause or impart unnecessary and undue hardship on the applicant;
2161
2162 5. That the variance granted is the minimum variance that will make possible the reasonable use of
2163 the land, building, or structure;
2164
2165 6. That granting the variance will not change the use to one that is not permitted in the zoning
2166 district or different from other land in the same district; and
2167
2168 7. That the granting of the variance will be in harmony with the general intent and purpose of these
2169 regulations, and that the variance will not be injurious to the area involved or otherwise
2170 detrimental to the public welfare.
2171
2172 C. Effect of Approval. An approved variance shall run with the land.

Section 3.4.4. Special Exceptions.

2176 The intent of this section is to permit Special Exception uses which are essential to, or would promote
2177 the public health, safety, or welfare in one or more zoning districts, but which might impair the integrity
2178 and character of the zoning district or in adjoining districts, such that restrictions or conditions on
2179 location, size, extent, and character of performance may be imposed in addition to those standards
2180 already imposed in the Land Development Code.

2181 A. General.

- 2182
2183 1. No variances shall be granted that would reduce or eliminate minimum requirements for special
2184 exception uses.
2185
2186 2. The Hearing Examiner may prescribe appropriate conditions and safeguards in conformity with
2187 the special exception use requirements. All such conditions shall be part of the terms under
2188 which the special exception is granted.
2189
2190 3. A special exception shall be deemed abandoned if:
2191
2192 a. The use is discontinued for more than 1 year; or
2193
2194

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- 2195 b. The special exception has not obtained a certificate of zoning compliance.
2196
2197 4. The proposed use shall comply with all requirements of the underlying zoning district(s), the
2198 Land Development Code, and all other applicable law.
2199
2200 B. Standards and Criteria. The following standards shall apply to all applications for special exception
2201 uses.
2202
2203 1. Consistency with the Comprehensive Plan?
2204
2205 2. The site must be suitable for the type of special exception use proposed by virtue of its location,
2206 shape, topography, and the nature of surrounding development.
2207
2208 3. All buildings shall be setback an adequate distance from property lines and rights-of-way.
2209 Greater building setbacks may be required when deemed necessary to protect surrounding
2210 properties.
2211
2212 4. Potential adverse impact to surrounding property must be mitigated to the maximum extent
2213 possible.
2214

Section 3.4.5. Vacations of Plats, Easements, and Rights-of-way.

2215 The purpose and intent of this section is to provide procedures for City Council to vacate rights-of-way,
2216
2217 easements, and plats pursuant to authority granted under Florida law. The City Council may adopt
2218 ordinances vacating plats in whole or in part of subdivisions within the corporate limits of the city,
2219 returning the property covered by such plats either in whole or in part into acreage for the purpose of
2220 taxation, or vacating public rights-of-way, public easements, or other property in response to
2221 applications filed from adjoining property owners.
2222

2223
2224 A. General.

- 2225
2226 1. The city may retain an easement for utilities or drainage over any vacated right-of-way and that
2227 no use may be made of vacated right-of-way which will be inconsistent with or interfere with
2228 the retained easement. The party seeking vacation of a plat, city street, alley, canal, other right-
2229 of-way, public easement, or other property must show or submit the following:
2230
2231 a. Petitioner has color of title to the tract or parcel of land covered by the plat or portion of
2232 the plat of which vacation is sought, unless the petitioner is the City of Cape Coral;
2233
2234 b. Letter of approval from Lee County Electric Cooperative, Inc.;
- 2235
2236 c. Letter of approval from affected telephone companies;
2237
2238 d. Letter of approval from affected cable companies; and
2239
2240 e. Letter of approval from any other affected utility companies (e.g., water, sewer);

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2. Applicants requesting to vacate rights-of-way or easements shall provide a recent boundary survey or survey sketch of the property prepared by a registered surveyor showing the area to be vacated and provide a complete legal description(s). The survey or sketch shall show all pavement and all utility and drainage facilities, including water, sewer, cable lines, utility poles, swales, ditches, manholes, and catch basins. Separate drawings and legal descriptions are required for each vacation area when right-of-way and easement configurations differ.
- B. Standards and Criteria. Applications for vacations shall be reviewed in accordance with the following criteria:
1. Whether the plat, easements, or rights-of-way are required by the City for any future transportation, access, water management, or public utility purposes.
 2. Whether any required easements are necessary to accommodate the vacation of any plat, easement, or right-of-way.
 3. If alternate routes are required or available that do not cause adverse impacts to surrounding areas.
 4. If the closure of a right-of-way negatively affects areas utilized for vehicles to turn around and exit an area.
 5. Whether local utility providers have given consent to the vacation of the plat, easements, or rights-of-way. The local utility providers may require additional easements or relocation of existing utilities facilities to complete the vacation.
- C. Additional Procedures and Noticing Requirements. In addition to the standard notice requirements required by this Code, the following additional notice requirements apply for vacations:
1. Specific notice requirements for vacations. Public hearing notices to vacate a plat or portion thereof shall be published once a week for two consecutive weeks, the first publication being not less than two weeks prior to the date of public hearing on the petition.
 2. If the parcel to be vacated includes an alley, all property owners serviced by the alley and all property owners serviced by a connecting alley shall be noticed.
 3. Adoption and recording of resolution and ordinance. After public hearing, the City Council may approve an application for a vacation if it determines there is no reasonably foreseeable public use for the vacated area. Approval of a vacation shall be by resolution or ordinance. The City may retain easements for utilities or drainage in and upon the vacated area. Upon adoption of the resolution vacating the plat or portion thereof, the City Clerk shall furnish to the petitioner a certified copy thereof and the petitioner shall cause the same to be recorded in the public records of the county and shall return a copy, showing the recording information, to the Department of Community Development.

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2287 4. Effect. The adoption and recording of a vacation shall have the effect of vacating all streets and
2288 alleys and city-owned easements shown on the portion of the plat so vacated, unless the
2289 resolution or ordinance specifically reserved unto the city such city-owned easements or such
2290 streets or alleys. If public rights-of-way are vacated, the resolution or ordinance shall specify
2291 whether or not easements are reserved therein for utilities and drainage. The resolution or
2292 ordinance shall not have the effect of vacating any public canal shown on the portion of the plat
2293 vacated, unless the resolution or ordinance specifically so provides.

2294
2295 5. Petitioner's responsibility. The city, City Council, and all officers, employees, and agents thereof
2296 shall not assume any responsibility or liability for any matters and things to be done or
2297 completed by the petitioner pursuant to the provisions hereof. It is recognized that this
2298 procedure may affect substantial interests in real property and other proprietary rights, and the
2299 petitioner shall assume full and complete responsibility for compliance with the requirements
2300 of law and these procedures in connection with or arising out of any vacation proceedings
2301 instituted by the petitioner.
2302

Section 3.4.6. Rezones

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2305 A. Manner of Initiation. Applications for a change in zoning may be initiated in the following manner:

- 2306
2307 1. The City Council upon its own motion;
2308
2309 2. The Planning and Zoning Commission upon its own motion;
2310
2311 3. The property owner(s) of at least fifty-one percent of the land in the proposed rezone area;
2312
2313 4. The City Manager for a City initiated rezone; or
2314
2315 5. The Community Development Department, following approval of a similar use determination.
2316

2317 B. Review Criteria. An application for a rezone shall be reviewed in accordance with the following
2318 criteria:

- 2319
2320 1. Whether the proposed zoning district proposed is consistent with the City Comprehensive Plan;
2321
2322 2. Whether the full range of uses allowed in the proposed zoning district will be compatible with
2323 existing uses in the area under consideration;
2324
2325 3. Whether the range of uses allowed in the proposed zoning district will be compatible with existing
2326 and potential uses in the area under consideration;
2327
2328 4. Whether the proposed zoning district will serve a community need or broader public purpose;
2329
2330 5. The characteristics of the proposed rezone area are suitable for the uses permitted in the
2331 proposed zoning district; and
2332

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2333 6. Whether a zoning district other than the district requested will create fewer potential adverse
2334 impacts to existing uses in the surrounding area.

2335
2336 C. Effective date of approval. A rezone shall take effect upon City Council adoption of the ordinance
2337 approving the rezone.

2338
2339 D. New application after denial. No application for a rezone which has been previously denied by the
2340 City Council shall be accepted for at least one year after the date of denial. An application to rezone
2341 property to a designation that is different than the designation which was denied by the City
2342 Council, will be accepted and considered without consideration of time since the previous
2343 application was denied.

2344

2345 **Section 3.4.7. Planned Unit Developments (PUD)**

2346

2347 A. General.

2348

2349 1. A Planned Unit Development (PUD) is an area designed for development as a cohesive unit,
2350 where uses and innovations in design and layout of the development provide public benefits
2351 when compared to standard zoning or uniform lot and block subdivision patterns and design
2352 features.

2353

2354 2. In a PUD, the various land use elements are designed so that they interrelate with each other.
2355 The boundary between a PUD and adjacent land area(s) requires particular attention to ensure
2356 transition and that land use patterns are compatible.

2357

2358 3. Permitted uses in a PUD must be consistent with the Comprehensive Plan future land use
2359 classification for the site(s) in question.

2360

2361 B. Purpose and Intent. The purpose and intent of a PUD are to:

2362

2363 1. Innovation in Design. To encourage innovations in residential, commercial, mixed-use, and
2364 industrial development so that the needs of the population may be met by greater variety in
2365 type, design and layout of buildings and land uses and by the conservation and more efficient
2366 use of the space.

2367

2368 2. Appropriate Land Use. To promote the most appropriate use(s) of the land.

2369

2370 3. High Quality Development. To improve the design, character, and quality of new development.

2371

2372 4. Infrastructure. To facilitate the adequate and efficient provisions of roads and utilities.

2373

2374 5. Increased Compatibility. To achieve compatibility with surrounding neighborhoods and
2375 developments.

2376

2377 6. Provision of Open Space. To preserve open space as development occurs.

2378

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- 2379 7. Clustering of Uses. To provide for necessary commercial, recreational, and public facilities that
2380 are conveniently located to housing.
2381
- 2382 8. Increased Flexibility. To provide for flexibility in design for new development and future
2383 redevelopment.
2384
- 2385 9. Comprehensive Plan. To achieve the goals of the Comprehensive Plan.
2386
- 2387 10. To provide a method for previously approved Planned Development Projects to continue to
2388 develop under the terms of an approved PDP Development Order and to allow modification to
2389 existing PDP approvals under the PUD procedures.
2390
- 2391 C. Minimum Parcel Size. The minimum parcel size for a PUD is:
2392
- 2393 1. Non-residential or mixed use PUD. One acre.
2394
- 2395 2. All other PUDs. Three acres.
2396
- 2397 D. PUD approval steps. The PUD review and approval process includes:
2398
- 2399 1. A rezone to the PUD zoning district, which establishes the densities, intensities, and permitted
2400 uses within the PUD; and
2401
- 2402 2. A Master Concept Plan (MCP), which establishes the design, layout, and dimensional standards
2403 of the PUD.
2404
- 2405 E. Application and submittal requirements. Application and submittal requirements for a PUD are
2406 established in Sections 3.1.4 through 3.1.8 of this Article. In addition, a PUD requires:
2407
- 2408 1. An application for a rezone to the PUD zoning district; and
2409
- 2410 2. A Master Concept Plan application.
2411
- 2412 3. Submittal of the specific PUD application requirements listed in subsection G., below.
2413
- 2414 A PUD application for parcels 10 acres or larger may apply for a rezone to the PUD zoning district
2415 without submitting a MCP for concurrent review and processing.
2416
- 2417 F. Preapplication conference required. A pre-application conference shall be held with the Community
2418 Development Department prior to the submittal of a PUD. The applicant shall indicate the requested
2419 PUD zoning district and a sketch of the PUD Master Concept Plan, if applicable.
2420
- 2421 G. Specific PUD Submittal Requirements. A PUD application shall include the following:
2422
- 2423 1. A Letter of Intent, including:
2424

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- 2425 a. Reasons the PUD procedure is more desirable than a conventional plan;
2426
2427 b. General site description including acreages; and
2428
2429 c. General project description.
2430
- 2431 2. A PUD Master Concept Plan indicating:
2432
2433 a. Location of the uses within the site;
2434
2435 b. Vehicle circulation patterns and points of access;
2436
2437 c. Pedestrian and bicycle circulation with links to other external path systems;
2438
2439 d. Open space plan; and
2440
2441 e. Landscape and buffer plans.
2442
- 2443 3. Sample formation of HOA or other organization to operate and maintain open space and other
2444 on-site public or private improvements.
2445
- 2446 4. Phasing plan, if applicable.
2447
- 2448 H. PUD Zoning Districts. Each PUD shall be rezoned to one of the following designations, based on
2449 proposed development:
2450
2451 RPUD - Residential PUD
2452 CPUD - Commercial PUD
2453 IPUD - Industrial PUD
2454 MXPUD - Mixed Use PUD
2455 PFPUD - Public Facilities PUD
2456
- 2457 The proposed PUD zoning district must meet the criteria for rezones as set forth by this Code.
2458
- 2459 I. Review Standards and Criteria.
2460
- 2461 1. Every PUD shall be in conformance with the City Comprehensive Plan. The maximum density or
2462 intensity within any PUD shall be consistent with the future land use designation of the site as
2463 determined by the Comprehensive Plan.
2464
- 2465 2. Specific uses, densities, and intensities for each PUD are established in the PUD rezone
2466 ordinance. The approved uses, densities, and intensities for a PUD shall take precedence over
2467 other standards and requirements in these regulations. The uses approved in a PUD shall be
2468 permitted uses.
2469

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- 2470 3. Specific bulk, area, and dimensional standards for each PUD are approved in the MCP for a PUD
2471 and shall take precedence over the standards and requirements in these regulations for
2472 development that is not within an approved PUD. Elements to be evaluated for a PUD shall
2473 include:
2474
- 2475 a. Appropriateness of the proposed or density or intensity of the development;
 - 2476
 - 2477 b. Internal and external compatibility of the development and surrounding uses;
 - 2478
 - 2479 c. Transition and separation between surrounding uses;
 - 2480
 - 2481 d. Vehicular and pedestrian circulation patterns;
 - 2482
 - 2483 e. Arrangement and functionality of open space;
 - 2484
 - 2485 f. Access points;
 - 2486
 - 2487 g. Public amenities, if applicable;
 - 2488
 - 2489 h. Additional amenities that will serve the project; and
 - 2490
 - 2491 i. Details and design of internal and external buffers.
 - 2492
- 2493 4. Open Space.
2494
- 2495 a. For all PUDs except for IPUDs, a minimum of twenty-five percent of the total land area shall
2496 consist of common open space. The City may consider a request by the applicant for less
2497 than twenty-five percent common open space when deemed appropriate because of size,
2498 location, or nature of the proposed development.
 - 2499
 - 2500 b. The amenities or off-site improvements shall be utilized by the City or developed by the
2501 applicant to mitigate the reduction of open space or to fulfill the recreational needs of the
2502 City.
 - 2503
 - 2504 c. Areas that Do Not Count as Open Space. Parking and loading areas, streets, and rights-of-way
2505 shall not count toward usable open space.
 - 2506
 - 2507 d. Areas that Count as Open Space. Water bodies, surface water retention areas, preservation
2508 areas, and riparian areas that are preserved as open space shall count towards this minimum
2509 standard, even when they are not usable by or accessible to the residents of the PUD. All
2510 other open space shall be conveniently accessible from all occupied structures in the PUD.
 - 2511
 - 2512 e. Improvements Required. All common open space and recreational facilities shall be shown
2513 on the PUD Plan and shall be constructed and fully improved according to the development
2514 schedule established for each development phase of the PUD.
 - 2515

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- 2516 f. Landscaping along Sidewalks. All sidewalks within a PUD must be shaded by canopy trees.
2517 The area used for shading the sidewalks can be considered as part of the minimum open
2518 space requirement.
2519
- 2520 g. Maintenance of Open Space. All open space shall continue to conform to its intended use,
2521 as specified on the PUD Master Concept Plan. To ensure that public open space identified in
2522 the PUD will be used as open space, restrictions, easements, or covenants shall be recorded
2523 in deeds or the open space areas may be dedicated to the public to ensure their
2524 maintenance and to prohibit the division of any public open space. Any subdivision of land
2525 will require a Property Owners Association (POA) or Home Owners Association (HOA) to
2526 ensure that open spaces within a PUD are maintained. The City is not required to accept
2527 dedication of open space areas.
2528
- 2529 5. PUD Perimeter Buffers. The boundary between a PUD and adjacent land uses shall be
2530 landscaped with a buffer that has sufficient width and shall include screening to ensure a proper
2531 transition and increase compatibility between land uses. The buffer shall be approved by City
2532 Council.
2533
- 2534 6. Street Standards. All streets, roads, and drive aisles shall be designed and constructed in
2535 conformance with the City Engineering and Design Standards.
2536
- 2537 7. Phasing. When a PUD is developed in phases, a proportional amount of the open space and
2538 recreations areas shall be included in each phase, in order to comply with the open space
2539 requirements of this chapter at the completion of each phase of the development.
2540
- 2541 J. Master Concept Plan and concurrent Preliminary Subdivision Plan review. The approved Master
2542 Concept Plan may be used for Preliminary Subdivision Plan approval, as defined in Article 10,
2543 provided required details and information for PSP review are included in the MCP.
2544
- 2545 K. Amendments to Planned Unit Developments.
2546
- 2547 1. Administrative Amendments. Amendments to an approved PUD may be approved
2548 administratively if they meet the following criteria:
2549
- 2550 a. Density or intensity is increased by less than ten percent.
2551
- 2552 b. Open space is not decreased by more than five percent.
2553
- 2554 c. There are no changes to any condition of approval.
2555
- 2556 d. There is no change in permitted uses or types of structures.
2557
- 2558 e. Dimensional standards are changed by no more than ten percent.
2559
- 2560 2. Review Standards for amendments. An approved PUD Master Concept Plan may be amended if
2561 the applicant demonstrates that the proposed modification:

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- 2562
- 2563 a. Is consistent with the efficient development and preservation of the entire PUD;
- 2564
- 2565 b. Does not affect in a substantially adverse manner either the enjoyment of the land abutting
- 2566 upon, adjoining or across a street from the planned unit development;
- 2567
- 2568 c. Is not granted solely to confer a special benefit upon any person;
- 2569
- 2570 d. Does not contain proposed uses that detract from other uses approved in the PUD;
- 2571
- 2572 e. Does not contain an open space plan that differs substantially in quantity or quality from the
- 2573 originally approved plan; and
- 2574
- 2575 f. Contains streets and utilities that are coordinated with planned and existing street and
- 2576 utilities for the remainder of the PUD.
- 2577
- 2578 3. Amendments that require City Council Approval. Any amendment to a PUD that does not meet
- 2579 the criteria in subsection 1 through 2, above must be approved by the City Council.
- 2580
- 2581 L. Effect of PUD approvals.
- 2582
- 2583 1. PUD zoning. A rezone to a PUD zoning district shall run with the land.
- 2584
- 2585 2. Master Concept Plans. A MCP shall be valid for any time period established in the conditions of
- 2586 approval for the MCP. If a specific time period is not specified then the MCP shall run with the
- 2587 land.
- 2588 OR
- 2589 3. If a Site Development Plan, a building permit for vertical construction, or a subdivision plat has
- 2590 not been approved within 10 years, the Master Concept Plan shall be null and void, unless an
- 2591 extension has been approved by City Council.
- 2592
- 2593 M. Extensions. A PUD may receive one extension that is valid for two years. Upon expiration of the
- 2594 extension, the Master Concept Plan shall be null and void.
- 2595

CHAPTER 5. SPECIFIC REVIEW PROCEDURES - LEGISLATIVE APPROVALS

Section 3.5.1. Annexations

- 2597
- 2598
- 2599
- 2600 A. Purpose of Annexations. Annexations shall be considered for the following reasons:
- 2601
- 2602 1. The annexation implements the Comprehensive Plan.
- 2603
- 2604 2. The annexation increases the City's inventory of non-residential lands.
- 2605
- 2606 3. The annexation results in the removal of enclaves.
- 2607

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- 2608 4. The annexation results in the logical extension of City boundaries.
2609
2610 B. Manner of Initiation. Applications to annex property in to the City may be initiated in the following
2611 manner:
2612
2613 1. The City Council; or
2614
2615 2. By a petition of one or more owners of property within an area proposed for annexation.
2616
2617 C. Review Criteria. Proposed annexations shall be reviewed in accordance with the requirements of
2618 Chapter 171, Florida Statutes.
2619
2620 D. Effective date of approval: The effective date of an annexation will take place in accordance with
2621 Chapter 171, Florida Statutes.
2622

Section 3.5.2. Future Land Use Map Amendments

- 2623
2624
2625 A. Purpose of Amendments. Future Land Use Map amendments shall be considered for the following
2626 reasons:
2627
2628 1. The amendment implements the goals, objectives, and policies of the Comprehensive Plan.
2629
2630 2. The amendment promotes compliance with changes to other city, state, or federal regulations.
2631
2632 3. The amendment results in compatible land uses within the a specific area.
2633
2634 4. The amendment implements findings of reports, studies, or other documentation regarding
2635 functional requirements, contemporary planning practices, environmental requirements, or
2636 similar technical assessments.
2637
2638 5. The amendment is consistent with the City's ability to provide adequate public facilities and
2639 services.
2640
2641 6. The amendment prepares the City for future growth, such as reflecting changing development
2642 patterns, identifying demands for community services, reflecting changes necessary to
2643 accommodate current and planned growth in population, and facilitating community
2644 infrastructure and public services.
2645
2646 B. Manner of Initiation. Applications for a Future Land Use Map Amendment (FLUMA) may be initiated
2647 in the following manner:
2648
2649 1. The City Council by its own motion;
2650
2651 2. The Planning and Zoning Commission by its own motion;
2652
2653 3. The City Manager for City initiated requests; or

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- 2654
2655 4. By a petition of one or more property owners of at least 51% of the property owners of an area
2656 proposed for amendment.
2657
2658 C. Review Criteria. Proposed future land use map amendments shall be reviewed in accordance with the
2659 requirements of Chapter 163, Florida Statutes, and the following criteria:
2660
2661 1. Whether the proposed future land use amendment is consistent with the goals, policies, and
2662 future land use designations of the City Comprehensive Plan;
2663
2664 2. The amendment protects the health, safety, and welfare of the community;
2665
2666 3. The proposed amendment and all of the consistent zoning districts, and the underlying permitted
2667 uses, are compatible with the physical and environmental features of the site;
2668
2669 4. The range of zoning districts and all of the allowed uses in those districts are compatible with
2670 surrounding uses in terms of land suitability or density and that a change will not result in negative
2671 impacts on the community or traffic that cannot be mitigated through application of the
2672 development standards in this Code;
2673
2674 5. The site is capable of accommodating all of the allowed uses, whether by right or otherwise,
2675 considering existing or planned infrastructure for roads, sanitary and water supply systems,
2676 stormwater, parks, etc.; and
2677
2678 6. Other factors deemed appropriate by the Commission and City Council.
2679
2680 D. Effective date of approval. The effective date of a future land use map amendment shall be in
2681 accordance with Chapter 163, Florida Statutes.
2682

Section 3.5.3. Comprehensive Plan Text Amendments

- 2683
2684
2685 A. Purpose of Amendments. Comprehensive Plan text amendments shall be considered for the following
2686 reasons:
2687
2688 1. The amendment clarifies the intent of the Comprehensive Plan.
2689
2690 2. The amendment corrects an error in the Comprehensive Plan.
2691
2692 3. The amendment addresses changes to state legislation, recent case law, or opinions from the
2693 Attorney General of the State of Florida.
2694
2695 4. The amendment implements the Comprehensive Plan.
2696
2697 5. The amendment promotes compliance with changes to other city, state, or federal regulations.
2698
2699 6. The amendment results in compatible land uses within the future land use designation.

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- 2700
- 2701 7. The amendment implements findings of reports, studies, or other documentation regarding
- 2702 functional requirements, contemporary planning practices, environmental requirements, or
- 2703 similar technical assessments.
- 2704
- 2705 8. The amendment promotes the City’s ability to provide adequate public facilities and services.
- 2706
- 2707 B. Manner of Initiation. Comprehensive Plan Text Amendments may be initiated in the following
- 2708 manner:
- 2709
- 2710 1. The City Council;
- 2711
- 2712 2. The Planning and Zoning Commission; or
- 2713
- 2714 3. The City Manager for City initiated requests.
- 2715
- 2716 C. Review Criteria. Proposed comprehensive plan text amendments shall be reviewed in accordance with
- 2717 the requirements of Florida Statutes, Chapter 163, and the following criteria:
- 2718
- 2719 1. The amendment is consistent with the goals and policies of the City Comprehensive Plan;
- 2720
- 2721 2. The amendment protects the health, safety, and welfare of the community; or
- 2722
- 2723 3. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.
- 2724
- 2725 D. Effective date of approval. The effective date of a comprehensive plan text amendment shall be in
- 2726 accordance with Chapter 163, Florida Statutes.
- 2727

2728 **Section 3.5.4. Land Development Code Text Amendments**

2729

- 2730 A. Purpose of Amendments. Land Development Code (LDC) text amendments shall be considered for
- 2731 the following reasons:
- 2732
- 2733 1. The amendment clarifies the intent of the LDC.
- 2734
- 2735 2. The amendment corrects an error in the LDC.
- 2736
- 2737 3. The amendment addresses changes to state legislation, recent case law, or opinions from the
- 2738 Attorney General of the State of Florida.
- 2739
- 2740 4. The amendment implements the LDC or Comprehensive Plan.
- 2741
- 2742 5. The amendment promotes compliance with changes to other city, state, or federal regulations.
- 2743
- 2744 6. The amendment adds district uses that are consistent with the character of the current range of
- 2745 allowed uses.

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7. The amendment results in providing compatible land uses within Cape Coral.
 8. The amendment implements findings of reports, studies, or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assessments.
- B. Manner of Initiation. Applications for a LDC text amendment may be initiated in the following manner:
1. The City Council by its own motion;
 2. The Planning and Zoning Commission by its own motion; or
 3. The City Manager for City initiated requests, including text amendments associated with a similar use determination.
- C. Review Criteria. Proposed LDC text amendments shall be reviewed in accordance with the following criteria:
1. Whether the proposed LDC text amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan;
 2. The amendment results in compatible land uses within a zoning designation;
 3. The amendment protects the health, safety, and welfare of the community; or
 4. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.
- D. Effective date of approval. The effective date of a LDC text amendment shall take place upon adoption.

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CHAPTER 1 – GENERAL PROVISIONS, ZONING DISTRICTS ESTABLISHED, ZONING USE TABLES

- Section 4.1.** Purpose and Intent
- Section 4.2.** Establishment of Zoning Districts
- Section 4.3.** Zoning District Development Standards
- Section 4.4.** Uses by Zoning District

CHAPTER 2 – SPECIFIC REGULATIONS BY DISTRICT

- Section 4.5.1.** Single-Family Residential (R1)
- Section 4.5.2.** Residential Multi-Family Low (RML)
- Section 4.5.3.** Residential Multi-Family Medium (RMM)
- Section 4.5.4.** Residential Estate (RE)
- Section 4.5.5.** Agricultural (A)
- Section 4.5.6.** Commercial (C)
- Section 4.5.7.** Professional Office (P)
- Section 4.5.8.** Industrial (I)
- Section 4.5.9.** Institutional (INST)
- Section 4.5.10.** Preservation (PV)
- Section 4.5.11.** Commercial Corridor (CC)
- Section 4.5.12.** Neighborhood Commercial (NC)
- Section 4.5.13.** Mixed-Use Bimini District (MXB)
- Section 4.5.14.** Mixed-Use Seven Islands District (MX7)
- Section 4.5.15.** South Cape Downtown District (SC)

CHAPTER 1 – GENERAL PROVISIONS

Section 4.1. Purpose and Intent.

- A. The purpose of this article is to encourage and promote the safety, health, and general welfare of the citizens of Cape Coral, Florida by providing for:
1. Efficiency and economy in the process of development;
 2. Appropriate and best use of land;
 3. Convenience of traffic and circulation of people and goods;
 4. Adequate public utilities and facilities;
 5. Promotion of the civic amenities of beauty and visual interest;
 6. Development in accord with the comprehensive plan by establishing zoning districts;
 7. Regulation of the location and use of buildings, structures, and land; and

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- 48 8. Regulation of:
- 49
- 50 a. Height, bulk, and access to light and air of buildings and structures;
- 51
- 52 b. The area of yards and other open spaces; and
- 53
- 54 c. The density or intensity of development on a given site.
- 55
- 56 B. To accomplish these objectives, the regulations and districts and accompanying zoning map have been
- 57 designed with reasonable consideration, among other things, to reflect the character of the districts
- 58 and their suitability for particular uses.
- 59

60 **Section 4.2. Establishment of Zoning Districts**

61

62 For regulating and restricting the use of land and the erection, construction, reconstruction, altering,

63 moving, or use of buildings and structures, the City of Cape Coral is divided into zoning districts. The City

64 zoning districts are classified as follows:

65

66 A. Residential Zoning Districts

67

- 68 1. Residential Single Family (R-1). This district is established to encourage and protect single-family
- 69 development and to permit other uses generally compatible with single-family residential uses.
- 70
- 71 2. Residential Multi-Family Low (RML). This district is to accommodate multi-family housing to
- 72 meet the needs of a diverse community, while ensuring that there is a transition to single-family
- 73 neighborhoods which protects the integrity of those neighborhoods. The RML district acts as a
- 74 transition zone from lower density residential to higher density residential or non-residential uses
- 75 or zoning districts.
- 76
- 77 3. Residential Multi-Family Medium (RMM). This zoning district is to accommodate multi-family
- 78 housing at a higher density than RML to meet the needs of a diverse community. The RMM
- 79 district also acts as a transition zone from lower density residential areas to non-residential land
- 80 uses or zoning districts.
- 81
- 82 4. Residential Estate (RE). This district is established to provide areas for single-family dwellings
- 83 typically on parcels of 40,000 square feet or more in areas of the city that are rural in character.
- 84 The RE district permits the keeping of some domesticated livestock for use by the occupants.
- 85
- 86 5. Agriculture (A). This district is to accommodate agricultural activities and operations which may
- 87 include crop cultivation; the breeding, raising, or keeping of livestock or fur bearing animals; dairy
- 88 farming; apiculture; and to allow all accessory uses and structures customarily incidental to those
- 89 activities.
- 90

91 B. Non-Residential Zoning Districts

92

- 93 1. Commercial (C). This district is designed to encourage and facilitate commercial activities intended
- 94 to serve a relatively large trade area, appropriate commercial locations on major thoroughfares

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95 in developed areas, and is intended to meet the needs of motorists and other consumers through
96 the provision of automobile-oriented commercial activities to meet the needs of several types
97 and varieties of general commercial activities.

- 98
99 2. Professional Office (P). This district is designed to encourage the compatible development of
100 major professional and related office complexes in areas which are suitable for such activities.
101 The P District may serve as a transition between commercial corridors and nearby residential
102 uses.
103
104 3. Industrial (I). This district is to accommodate manufacturing, fabrication, warehousing, and other
105 related activities that typically utilize large work forces, generate semi-tractor trailer traffic, and
106 may produce external impacts such as noxious smells, smoke, or noise.
107
108 4. Institutional (INST). This district is to allow for development of nonprofit or quasi-public uses such
109 as religious institutions, libraries, public or private schools, hospitals, or government owned or
110 operated structures. Many of these uses provide meeting places for the citizens of Cape Coral and
111 valuable civic engagement opportunities.
112
113 5. Preservation (PV). This district is to identify environmental resources or natural features as areas
114 intended to remain in a predominately natural or undeveloped state to provide resource
115 protection and opportunities for passive recreation and environmental education for present and
116 future generations.

117
118 C. Mixed Use Zoning Districts

- 119
120 1. Commercial Corridor (CC). This district is established to implement the recommendations of
121 the Pine Island Road Master Plan and to promote such uses as retail, office, limited
122 warehouse and light manufacturing, multi-family residential and large-scale commercial
123 retail uses.
124
125 2. Neighborhood Commercial (NC). This district is intended to create a variety of dynamic walkable,
126 mixed-use environments; provide a range and mix of commercial and housing choices near each
127 other; and to create quality usable public spaces. The NC District utilizes form-based design
128 standards and provides development options based on parcel size.
129
130 3. Mixed Use Seven Islands (MX7). This district is intended to implement master plan
131 recommendations for the Seven Islands Area consistent with the Seven Islands ~~Sub District Vision~~
132 ~~Plan~~. A further objective is to foster a sense of place and create a destination environment in
133 northwestern Cape Coral. To achieve these objectives, the MX7 district allows a more flexible
134 approach to comprehensive design and coordinated development of a multi-use neighborhood
135 than is possible under other zoning classifications.
136
137 4. Mixed Use Bimini (MXB). This district is to promote redevelopment and enhancement of the
138 Bimini Basin area of Cape Coral to create a destination for residents and visitors, consistent with
139 the Downtown Mixed Future Land Use Classification and the Bimini Basin Revitalization and
140 Implementation Plan. This district encourages mixed-use development. Existing commercial and
141 professional buildings will be supplemented with entertainment activities and a wide diversity of

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housing types to create a vibrant work, live, shop, and play district that serves the entire city and region.

4.5. This district is intended to implement master plan recommendations for the Bimini Basin Area. A further objective is to foster a sense of place and create a destination environment in southeastern Cape Coral. To achieve these objectives, the MXB district allows a more flexible approach to comprehensive design and coordinated development of a multi-use neighborhood than is possible under other zoning classifications.

5.6. South Cape (SC). This district is to promote redevelopment and enhancement of the traditional commercial center of Cape Coral into a more compact and walkable form growth and to create a destination for residents and visitors. This district encourages mixed-use development. Existing commercial and professional buildings will be supplemented with entertainment activities and a wide diversity of housing types to create a vibrant work, live, shop, and play district that serves the entire city and region.

It is intended that the South Cape regulations act as a stimulus to development through provisions that permit a flexible approach to infill development on various lot sizes, as well as special provisions related to particular locations within the district. Therefore, many of the provisions contained herein, including uses and dimensional regulations, are regulated by lot size, or the extent of roadway frontage or a combination thereof.

6.7. Planned Unit Development (PUD). This district is designed for development as a cohesive unit, where uses and innovations in design and layout of the development provide public benefits when compared to standard zoning or uniform lot and block subdivision patterns and design features.

Section 4.3. Zoning District Development Dimensional Standards

The purpose of this section is to identify the bulk, area, and dimensional standards for construction in each zoning district.

Table 4.3.1. Zoning District Dimensional Standards

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ZONE DISTRICT DIMENSIONS									
ZONE DISTRICT	Lot and Structure		Minimum Setbacks (feet)						Maximum Height (feet)
	Minimum Lot Area (Square ft.)	Maximum FAR	Front	Front, Cul-de-Sac	Side	Rear	Double Frontage	Corner Lot Side	
RESIDENTIAL									
R-1	10,000*	None	25	18	7.5	20/10	25	10	38
RML	10,000	None	25	18	7.5	20/10	25	10	38
RMM	43,560	None	25	18	6	26	25	10	50
RE	40,000	None	50	36	35	35	50	25	38
A	None**	None	50	36	35	35	50	25	38
NON-RESIDENTIAL									
C	None	1	6	None	0/6	10	6	10	None
CC	None / MF 4 ac	1	15	None	0/6	15	15	10	None
P	None	1	6	None	6/6	10	6	10	None
I	None	1	20	None	0/6	10	20	10	None
INST	None	1	25	None	15	25	25	10	60
PV	None	None	50	None	50	50	50	10	38

174 * See Section 5.11.6.K (Micro cottage standards)

175 ** 5 acres for non-residential uses

176

177

178

179

180 **Section 4.3.2 Projections and Encroachments into Setbacks**

181

182 Encroachments into required setbacks. Every part of the required setbacks on a parcel shall be open and
183 unobstructed from 30 inches above the ground, as measured from the average elevation of the crown of
184 road along the property frontage, except as provided below or as shown in Table 4.3.2, below.

185

186 A. Structures less than 30 inches in height are not considered encroachments into minimum required
187 setbacks.

188

189 B. Bermed earth, plant materials, sidewalks, and driveways are not considered encroachments.

190

191 C. Encroachments into required setbacks:

192

193 1. Cornices, overhangs, decorative awnings with no ground support installed over windows and at
194 entrances, eaves and gutters, balconies, and means of egress may project a maximum of three
195 feet into required setbacks.

196

197 2. Awnings requiring pole supports to be placed in a setback area, or those without pole supports
198 which encroach more than 3 feet into required setbacks, may be approved, in districts other than
199 RE or R1, at the discretion of the Director of Community Development. Such awnings must

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function as decorative architectural elements as opposed to garage, carport, or other similar storage facilities.

3. Air conditioning, pool equipment, and generators permitted and installed prior to the effective date of this ordinance may be maintained and replaced provided the new equipment does not encroach more than three feet into any required setback. All air conditioners, generators, and pool equipment installed after the effective date of this ordinance must comply with all setback requirements and be out of easements.
4. Permitted encroachments into required setbacks are not allowed to encroach into utility easements (See Article 5, Section 5.1.6).

Table 4.3.2 Permitted Setback Encroachments

Projection or Feature	Encroachment (measured from primary structure envelope)			Max Height
	Front Yard	Side Yard	Rear Yard	
Architectural features	2 ft.	2 ft.	2 ft.	N/A
Awnings and canopies	3 ft.	3 ft.	3 ft.	N/A
Balconies	3 ft.	3 ft.	3 ft.	N/A
Chimneys	N/A	2 ft.	2 ft.	per Building Code
Eaves, gutters, and overhangs	3 ft.	3 ft.	3 ft.	N/A
Porches	5 ft.	3 ft.	3 ft.	N/A
Solar Photovoltaic (PV) Arrays, attached to primary structure	N/A	3 ft.	3 ft.	3 ft. above a peaked roof, 10 ft. above a flat roof
Mechanical equipment: AC, generator, pool equipment	N/A	5 ft.	5 ft.	N/A
Stairways	5 ft.	3 ft.	5 ft.	N/A
Ornamental Walls	5 ft.	1.5	5 ft.	30 inches

Section 4.4. Uses by Zoning District – Use Hierarchy.

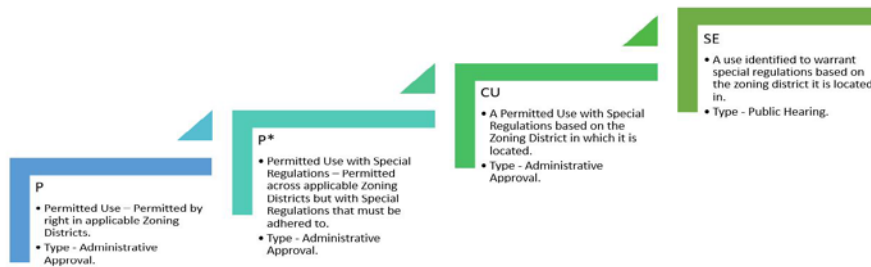
A. Classification of Uses Listed in Table 4.4.

1. Permitted Uses. Uses that are allowed by right. These uses are shown in the table with a “P”.

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- 223 2. Permitted Uses with Specific Regulations. Uses that are permitted with specific regulations that
224 apply in all zoning districts where those uses are permitted. The specific regulations are provided
225 in Article 5, Chapter 11. These uses are shown in the table with a “P*”.
- 226
- 227 3. Conditional Uses. Uses which are generally appropriate in a Zoning district. Conditional uses are
228 permitted uses which, because of potential impacts, may require reasonable special limitations
229 or conditions of approval peculiar to the use for the protection of the public health, safety, or
230 welfare and the integrity of the Comprehensive Plan. The specific requirements for conditional
231 uses are provided in Article 5, Chapter 12. These uses are shown in the table with a “CU”.
- 232
- 233 4. Special Exception Uses. Those uses or structures that may not be appropriate generally or without
234 restriction throughout a district but which, if controlled as to ~~number~~, area, location, or their
235 relationship and potential impacts to nearby residences or neighborhoods, would be acceptable.
236 These uses are shown in the table with an “SE”.
- 237
- 238 5. Prohibited Uses. Any use not specifically listed as a permitted use, a permitted use with specific
239 regulations, a conditional use, a special exception use, a permitted accessory use, or permitted
240 through a similar use determination shall be considered expressly prohibited.
- 241
- 242 B. Uses not listed in Table 4.4.
- 243
- 244 1. Accessory Uses. Accessory uses are customarily associated with and are incidental and
245 subordinate to such principal uses. An accessory use shall be subject to the same regulations that
246 apply to the principal use in each district, except as otherwise provided.
- 247
- 248 2. Temporary Uses. Uses that are deemed temporary in nature regulated by separate
249 ordinance Article 5, Chapter 10 or the City Code of Ordinances, shall not be subject to the
250 standards and requirements as set forth in this article, except that the City may impose conditions
251 which may include limiting the period of approval, imposing hours of operations, operational
252 standards to minimize impacts on surrounding properties, and any other conditions deemed
253 necessary to minimize detrimental impacts to the welfare of the community. These uses are listed
254 in Article 5, Chapter 10 or the City Code of Ordinances.
- 255
- 256 3. Similar Use Determinations. See Article 3-~~3~~, Section 3.3.3.
- 257

USE HIERARCHY



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259

260 **Table 4.4 Use Table**

261 The following table of permitted uses, when read together with the definitions set forth in Article 11 shall
262 be used to determine the zoning district in which a given use may be established.

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Use Table

P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted

	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC		
																PK	PR	SEC
Residential	Single-family	P	P		P	P												
	Duplex		P*															
	Multi-family		CU	P							CU	CU	CU	CU	CU	CU	CU	CU
	Single-family Attached - 3 or more		CU	P							CU	CU	CU	CU				
	Micro-Cottage	P*																
	Assisted Living Facility		SE	P			P	P			P	P				P		
	Family Day Care Home –5 or fewer	P	P	P	P	P												
	Community Residential Home – up to 6 res	P	P	P	P	P												
	Community Residential Home – 7 to 14 residents		P	P														
	Model Home	P*	P*		P*													
	Home Business	CU	CU		CU	P												
Home Occupation	P*	P*	P*	P*	P*							P*	P*	P*	P*	P*	P*	
Public and Institutional Uses	Animal Shelter					P			SE	SE								
	Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Educational Facilities – Primary and Secondary	P	P	P	P	P			P			P				P		
	Educational Facilities – Vocational Schools			SE				P	P	P		P				P		
	Educational Facilities – Colleges and universities								P	P								
	Essential Service Facilities - Major	SE	SE	SE	SE	SE	SE	P	P	P	SE	P	SE	SE	SE	SE	SE	SE
	Essential Service Facilities - Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Government Office Facilities					P	P	P		P		P	P	P	P	P	P	P
	Hospital							P		P		P						
	Public Parks and Recreational Facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Public Safety – Police/Fire	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

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Use Table

P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted

Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC		
																PK	PR	SEC
Food and Beverage	Bar							P				P	P	P	P	P	P	P
	Brewpub							P				P	P	P	CU	P	P	P
	Craft Brewery, Distillery, Winery							p*				p*	p*	p*	p*	p*	p*	p*
	Mobile Food Trucks						p*	p*	p*	p*		p*	p*	p*	p*	p*	p*	p*
	Restaurant, no drive-thru						SE	P				P	P	P	P	P	P	P
	Restaurant, drive-thru							P	P			P						
Lodging	Bed and Breakfast	SE	SE	SE	SE	SE												
	Campground					P												
	Hotel/Motel							P								P	P	P
	Resort	p*	p*	p*				P										
	RV Park					p*												

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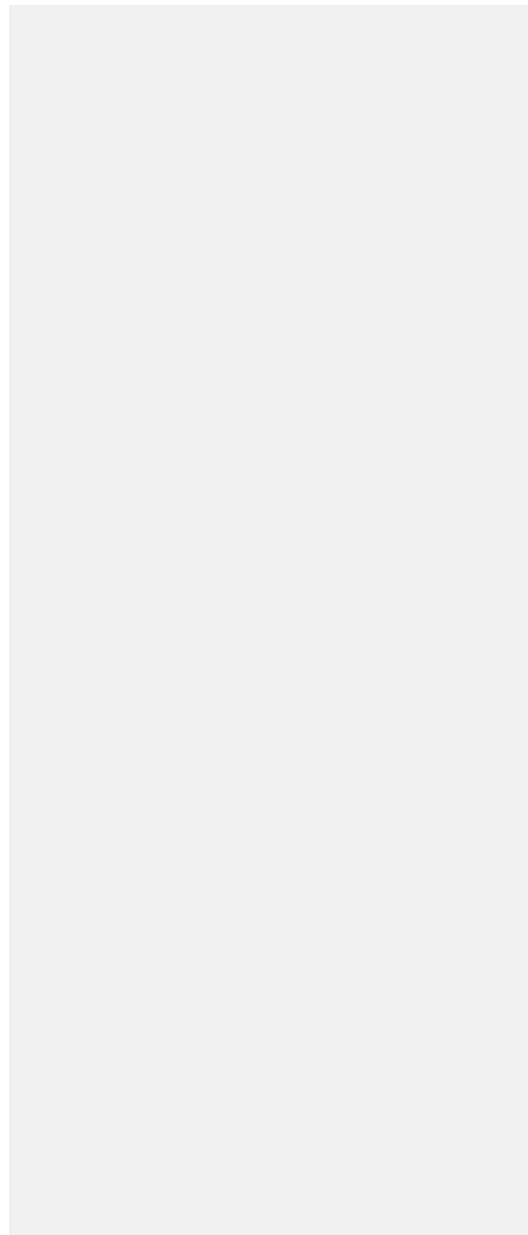
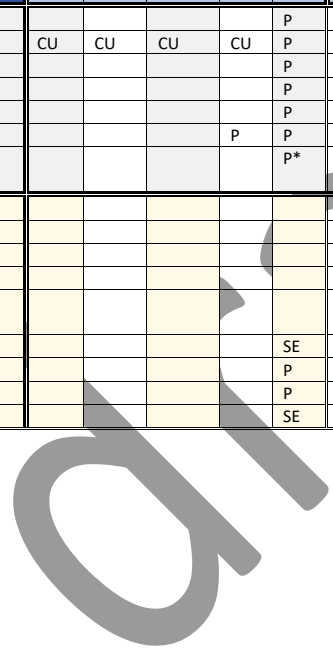
Use Table																			
P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted																			
Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts							
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC			
																PK	PR	SEC	
Commercial and Professional Services	Animal Kennel, Indoor				P	P		P				P			P		P	P	
	Animal Kennel, Outdoor					P													
	Day Care Facilities – Adult or Child		CU	CU	CU	CU	P	P		P		P	P		P		P	P	
	Banks and Finance - no drive thru						P	P				P	P			P	P	P	
	Banks and Finance w/ drive thru						P	P				P						P	
	Building and Construction w/o outdoor storage/display						P	P				P	P		P	P	P	P	
	Building and Construction w/ outdoor storage/display							CU				CU							
	Self-Storage							p*				p*							
	Personal Services						P	P				P	P	P	P	P	P	P	
	Pharmacy – no drive through						P	P				P	P	P	P	P	P	P	
	Pharmacy with drive through							P				P						P	
	Professional Offices						P	P				P	P	P	P	P	P	P	
	Professional Services						P	P				P	P				P	P	
	Radio and TV Station									P	P		P	P				P	P
	Repair Shops DEFINITION							P	P			P	P					P	P
Retail							P				P	P	P	P	P	P	P	P	
Retail >50,000 sq. ft. per tenant							P				P	SE			SE	SE	SE		

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Use Table

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Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC		
																PK	PR	SEC
Agriculture	Animal Boarding					P												
	Community Garden	CU	CU	CU	CU	P				P								
	Farms – Produce & Livestock					P												
	Greenhouse / Nursery					P					P							
	Outdoor storage – Agricultural					P												
	Stable				P	P												
	Roadside Food and Vegetable Stand					P*												
Industrial	Dry Cleaning/Laundry Plant									P								
	Extraction w/ancillary use									P								
	Industrial, Heavy									P								
	Industrial, Light									P		SE						
	Laboratory – medical, research, testing						SE	P	SE		SE							
	Energy Resource Generation					SE				P								
	Storage, Outdoor Screened					P			P	SE		CU						
	Storage, Outdoor					P			P									
	Solid Waste Transfer					SE				SE								



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Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MXB	MX7	SC		
																PK	PR	SEC
Places of Assembly	Amphitheatres/ Arenas					SE				SE						SE	SE	SE
	Banquet Hall							P			P	P			P	P	P	
	Clubs, Private and Fraternal							P			P	P				P	P	P
	Community Centers									P			P	P	P	P	P	P
	Cultural and Civic Facilities							P		P	SE			P	P	P	P	P
	Movie Theaters							P				P	P	P	P	P	P	P
	Religious Institution	CU	CU	CU	CU	CU	P	P		P								
Other	Cemetery / Mausoleum					P				P								
	Crematory									P								
	Funeral Homes							P	P		P	P				P	P	
	Wireless Antennas					p*	p*	p*	p*	p*	p*	p*				p*	p*	p*
	Solar Arrays					p*				p*	p*							

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CHAPTER 2. SPECIFIC REGULATIONS BY DISTRICT

This chapter establishes specific regulations for uses, activities, or structures within a zoning district.

Section 4.5.1. Single-Family Residential (R1)

Specific regulations for micro-cottages, model homes, childcare facilities, and home occupations are in Article 5, Chapter 11.

Specific conditions for home-based businesses and religious institutions are in Article 5, Chapter 12.

Section 4.5.2. Residential Multi-Family Low (RML)

Specific regulations for duplexes, model homes, and home occupations are in Article 5, Chapter 11.

Specific conditions for multi-family residences, single-family attached, home-based businesses, day care facilities and religious institutions are in Article 5, Chapter 12.

Section 4.5.3. Residential Multi-Family Medium (RMM)

Specific regulations for home occupations are in Article 5, Chapter 11.

Specific conditions for day care facilities and religious institutions are in Article 5, Chapter 12.

Section 4.5.4. Residential Estate (RE)

A. Specific regulations for model homes and home occupations are in Article 5, Chapter 11 and 12.

Specific conditions for home-based businesses, day care facilities and religious institutions are in Article 5, Chapter 12.

B. Non-domestic animals.

1. Non-domestic animals regulated in this section are considered to be a pet or for household consumption, and shall not be used for any commercial purposes.
2. Non-domestic animals are only allowed in the Residential Estate zoning district for sites with a Low Density Residential II Future Land Use Map classification pursuant to the regulations below and the requirements of the City Code of Ordinances.
3. Horses. The keeping of horses, including foals and yearlings, is permitted in the Residential Estate zoning district regardless of the Future Land Use Map classification. Any roofed structure for shelter of such animals shall be setback at least 100 feet from any property line.

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- 380 4. Cattle, mules, goats, sheep, swine, and poultry. The keeping, raising, and breeding of non-
381 domestic animals, including cattle, mules, goats, sheep, swine, and poultry may be permitted
382 in the Residential Estate as follows:
383
384 a. Lot size. The minimum lot area required for the keeping, raising, and breeding of non-
385 domestic animals, as identified in this section, is 100,000 square feet.
386
387 b. Animals within this subsection may not be kept or allowed to run within 100 feet of any
388 zoning district other than the Residential Estate (RE) within the Low Density Residential II
389 Future Land Use Map classification and Agricultural zoning districts.
390
391 c. Buildings or other roofed structures or enclosures for the keeping of animals within this
392 subsection must be set back a minimum of 150 feet from any zoning district other than
393 Residential Estate (RE) or Agricultural (A) zoning districts, under separate ownership.
394
395 d. The keeping and raising of non-domestic animals within this subsection is permitted in the
396 Residential Estate zoning district for personal use only, or for youth or farm-education
397 programs such as 4-H or The National FFA Organization.
398
399 C. Accessory structures. Accessory structures in the Residential Estate zoning district shall not have a
400 maximum size.

Section 4.5.5. Agricultural (A)

- 402 A. Specific regulations for commercial recreation with outdoor uses, RV parks, wireless antennas, and
403 home occupations are in Article 5, Chapter 11 and 12.
404
405 B. Specific conditions for day care facilities and religious institutions are in Article 5, Chapter 12.
406
407

- 408 ~~B. C.~~ Carports, garages or other buildings not used as a dwelling and customarily incidental
409 to the principal permitted use of the premises.
410 C. A minimum of five acres is required for all non-residential uses.
411

Section 4.5.6. Commercial (C)

- 412
413 Specific regulations for commercial parking lots and parking garages as a standalone use, craft brewery,
414 distillery, and wineries, mobile food trucks; and storage, neighborhood storage, and wireless antennas
415 are found in Article 5, Chapter 11 and 12.
416
417 Specific conditions for vehicle repair, minor, vehicle fueling stations, and building and construction with
418 outdoor display are in Article 5, Chapter 12.
419
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Section 4.5.7. Professional Office (P)

- 421
422 Specific regulations for mobile food trucks and wireless antennas are found in Article 5, Chapter 11.
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Section 4.5.8. Industrial (I)

Specific regulations for mobile food trucks and wireless antennas are found in Article 5, Chapter 11.

Section 4.5.9. Institutional (INST)

- A. Specific regulations for mobile food trucks and wireless antennas are found in Article 5, Chapter 12.
- B. Outdoor storage that is accessory to a principal use shall be screened from view from all rights-of-way by an opaque fence or wall.

Section 4.5.10. Preservation (PV)

Reserved.

Section 4.5.11. Commercial Corridor (CC)

Table 4.5.11.

Commercial Corridor Development Parameters		
	Development Area	
	0 – 3.99 acres	4 acres or greater
Free-standing Commercial Development Area		100%
Maximum FAR		1.0
Free-standing Residential Minimum Density	Not allowed	12 du/acre
Maximum Density	Not allowed	25 du/acre
Mixed-Use Minimum Density	3 du/acre	12 du/acre
Maximum Density	12 du/acre	25 du/acre
Maximum FAR	1.0	2.0
Minimum Front Setback	20 ft.	20 ft.
Minimum Side Setback	6 ft.	6 ft.
Min. Rear Setback	10 ft.	10 ft.

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Specific regulations for commercial parking lots and parking garages as a standalone use; craft brewery, distilleries, and wineries, mobile food trucks, neighborhood storage, and wireless antennas are found in Article 5, Chapter 11 and 12.

Specific conditions for multi-family residential, single-family attached with 3 units or greater, building and construction with outdoor storage, and screened outdoor storage are in Article 5, Chapter 12.

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Section 4.5.12. Neighborhood Commercial (NC)

A. Specific regulations for multi-family residences; single family attached 3 units or greater; commercial parking lots and parking garages as a standalone use; vehicle fueling stations; craft brewery, distilleries, and wineries; mobile food trucks; wireless antennas; and home occupations are found in Article 5, Chapter 11 and 12.

Specific conditions for multi-family residential, single-family attached with 3 units or greater, and vehicle fueling stations are in Article 5, Chapter 12.

B. Mix of uses. Development in the NC district is encouraged to have a mix of residential and non-residential uses, however, a mix of uses is not required.

C. Use areas. All land areas within developments in the NC District shall be categorized as one of the three following use areas:

1. Free-standing non-residential. Free-standing non-residential areas include the footprint and land areas associated with buildings that contain no residential units.

2. Free-standing residential. Free-standing residential areas include the footprint and land areas associated with buildings that contain residential units and buildings that contain non-residential floor area usage that is less than 30% of the building's floor area. In calculating the floor area of the building, the total floor area of the building is the floor area of the building remaining after the area of any structured parking is excluded. Also, any pre-existing single-family residences do not necessarily constitute free-standing residential development, unless such residences otherwise meet the criteria for such development.

3. Mixed-Use. Mixed-use areas include the footprint and land areas associated with compound use buildings that shall mean buildings with at least 30% of their floor areas allocated to non-residential uses.

D. Density, intensity, and use area allocations.

1. The allowable densities, intensities, and use area allocations within the NC District may vary with the land area allocated to each use in a development project.

2. A development can consist of one or more properties that are the subject of a single application for development.

3. If an application includes properties that are not contiguous, the application must demonstrate that the properties function as a unified development.

4. The land area that may be allocated to any of the three use area allocations varies with the size of the development project, with generally increasing flexibility as a function of the total land area of the development. Densities and intensities associated with any of the three use area categories apply only to the land area of the project that is allocated to that specific use. In

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determining the land area within any of the three use area allocations, the area of any common areas for surface water management, parking, landscaping, and circulation shall be apportioned among the three use area allocations in the same proportion as the non-common areas relate to the area of the development, excluding common areas.

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Table 4.5.12.

Neighborhood Commercial Development Parameters			
	Land Area of Development Project		
	1 acre or less	1 acre – 19.99 acres	20 acres or greater
Free-standing Commercial Development Area Maximum FAR	0-100% 1.0	25%-75% 1.0	25%-75% 1.0
Free-standing Residential Development Area Minimum Density Maximum Density	N/A N/A N/A	25%-75% 12 du/acre 25 du/acre	25%-75% 12 du/acre 25 du/acre
Mixed-Use Development Area Minimum Density Maximum Density Maximum FAR	0-100% 3 du/acre 12 du/acre 1.0	0-100% 12 du/acre 25 du/acre 2.0	0-100% 12 du/acre 25 du/acre 2.0
Build-to / Front Setback	6 ft. – 10ft.	10 ft.	10 ft.
Minimum Side Setback	0 or 6	0 or 6	0 or 6
Min. Rear Setback	6	6	6

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- E. Limitations on density and intensity within the NC District. In the Urban Services Reserve Area, residential uses are restricted to 4.4 dwelling units per acre and non-residential development is limited to uses that do not generate an estimated flow of more than 880 gallons of sewage per acre per day.
- F. Use area allocations. All developments in the NC District shall be categorized as one of the three following use areas:
 - 1. Free-standing non-residential. Free-standing non-residential areas contain no residential units.

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- 520
- 521 2. Free-standing residential. Free-standing residential areas include the footprint and land areas
- 522 associated with buildings that contain residential units and buildings that contain non-
- 523 residential floor area usage that is less than 50% of the building's ground floor area.
- 524
- 525 3. Pre-existing single-family residences do not constitute free-standing residential development.
- 526
- 527 4. Mixed-Use. Mixed-use areas include the footprint and land areas associated with mixed-use
- 528 buildings with at least 50% of the ground floor areas allocated to non-residential uses.
- 529
- 530 G. Use Area Calculations
- 531
- 532 1. The uses of a building (residential, non-residential, mixed-use) shall be calculated by the floor
- 533 area occupied by a use excluding any structured parking areas.
- 534
- 535 2. Developments that incorporate non-residential and residential uses shall clearly indicate the
- 536 land areas (square footage, percentage of development site, and locations) to be used for non-
- 537 residential, residential, and mixed-use, as well as the uses proposed within each of the
- 538 designated areas.
- 539
- 540 3. In determining land area within any of the three use area allocations common areas, including
- 541 surface water management, parking, landscaping, and circulation shall be distributed among
- 542 the three use area allocations in the same proportion as the non-common areas.
- 543
- 544 H. Development Standards
- 545
- 546 1. Drive-thru facilities are prohibited.
- 547
- 548 2. Loading Docks and Service Areas.
- 549
- 550 I. All loading docks and building service areas containing air handling equipment, generators, meters,
- 551 etc., shall be screened by a masonry wall from a pedestrian-level view from any adjacent residential
- 552 future land use category, public sidewalk, or public street, excluding alleys.
- 553
- 554 J. Such walls shall be designed to appear as an architectural extension of the principal building and
- 555 incorporate architectural trim and features consistent with the adjacent facade.
- 556
- 557 K. Walls required for screening loading docks or building service areas shall not exceed the height
- 558 limitations provided in Article 5 of this code unless approved by the DCD Director.
- 559
- 560 L. On sites greater than one acre the following shall apply:
- 561
- 562 1. The first story of the building frontage shall be at least 75% of the parcel width as measured
- 563 along the front property line. For adjoining parcels that are being developed simultaneously as
- 564 one site with one or more buildings, this percentage applies to the combination of lots and
- 565 building frontages.
- 566

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2. At least 40% of the building frontage shall be built at the minimum front setback line.
3. Off-street parking spaces shall not be within the front yard.
4. Outdoor display of cars, boats, motorcycles, and vehicles is prohibited.
5. Deviations from the requirements of this section may be approved pursuant to Article 3 of this code.

Section 4.5.13. Mixed-Use Bimini (MXB)

- A. Mix of Uses Allowed. Any type of dwelling unit as well as any accessory use is allowed, so long as the location and mix of types is consistent with the Bimini Basin Revitalization and Implementation Plans. A residential use may be intermixed with a nonresidential use or uses in the same block, lot, or building.
- B. Maximum Height and Density.
 1. The maximum shall be 50 dwelling units per acre.
 2. The maximum height shall be 8 stories or 115 feet.
 3. Developments that include at least 20% of the total units as affordable or workforce housing shall permit a maximum density of 75 dwelling units an acre and a maximum height of 12 stories or 150 feet.
- C. Compatibility and design standards. All uses must conform to the guidelines of the Bimini Basin Revitalization and Implementation Plan. Uses must be compatible with existing or planned development on or adjacent to the site.
 1. Orientation, and Design.
 - a. A building facing public streets, excluding alleys, -must provide a public entrance.
 - b. The first story of all non-civic buildings within the MXB shall provide shade via awnings, canopies, or similar features for no less than 50% of the building length.
 - c. No less than 25% of building wall frontage, as measured by square footage, -on major streets must have transparent doors and glazing or windows.
 - d. Office uses may only be comprise 20% of the ground floor public street facing building façade.
 - e. For properties with frontages on more than one street, ground floor storefront windows shall be located on a minimum of two public streets.
 - f. No less than 30% of all upper floor street facing building facades shall be fenestrated ~~have~~ windows.

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- 614
- 615 g. ~~With the exception for bathroom and kitchen mirrors, windows shall be transparent; no~~
616 mirror-type ~~or~~ dark-tinted, ~~or colored glass~~ is permitted for windows and doors in the MXB
617 district.
- 618
- 619 h. Window signs are prohibited.
- 620
- 621 ~~i. Ground floor window sills shall be no more than 24 inches above grade.~~
- 622
- 623 ~~j.i.~~ No wall-in or window-in air conditioning units are permitted.
- 624
- 625 ~~k.i.~~ All HVAC, mechanical and electrical equipment shall not be visible from the street.
- 626
- 627 2. External access and internal circulation.
- 628
- 629 a. Drive-thru facilities are prohibited.
- 630
- 631 b. The internal vehicular circulation system must follow a pattern of intersecting streets that
- 632 provide alternative routes.
- 633
- 634 c. Points of external access and alignments of internal roadways must facilitate use of public
- 635 transit. This includes dedication of rights-of-way sufficient for bus pull-outs and bus shelters,
- 636 as well as transit easements on private streets.
- 637
- 638 d. A comprehensive pedestrian and bicycle circulation system must link all uses, with the intent
- 639 of minimizing walking distances and reducing dependence on the private automobile for
- 640 internal travel and external access; and include:
- 641
- 642 i. Pedestrian sidewalks within the rights-of-way of Cape Coral Parkway;
- 643 ii. Pedestrian pathways and bikeways within open space areas, in addition to the sidewalks;
- 644 and
- 645 iii. Safe and convenient access to retail and service uses, community and public facilities, and
- 646 public transit, carpool, or vanpool services.
- 647
- 648 3. Public facilities and utilities.
- 649
- 650 a. All utility lines must be placed underground.
- 651
- 652 b. Street lighting must be provided.
- 653
- 654 D. Green area and public use space requirements. The minimum amount of green area is 10 percent of
- 655 the gross area of the site. This green area must include the following:
- 656
- 657 1. Within the nonresidential area, a plaza for public use;
- 658

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- 659 2. Within the residential area, a public park or common open space suitable for active or passive
660 recreation within a reasonable walking distance of any area devoted to multi-family or single-
661 family attached dwelling units; and
662
663 3. Street trees are required on public streets. Street trees shall be placed at a maximum of 30' on
664 center.
665
666 E. Outdoor sound amplification. In addition to the requirements found in Section 5.9.3, the following
667 regulations shall apply:
668
669 1. Sound amplification devices shall be oriented toward the use hosting the device, and shall not
670 be oriented toward surrounding residential uses.
671
672 2. A proposal to establish an outdoor venue in the MXB district is required to submit a site plan
673 amendment. All proposed outdoor venues associated with a new business shall submit a site
674 plan application to the City which shall be subject to review and approval by the HEX. The site
675 plan amendment shall be reviewed in accordance with the following:
676
677 a. For waterfront properties, no site plan amendment shall be approved unless the
678 information provided by the applicant indicates that the outdoor sound amplification
679 equipment will be oriented and located in a way that sound will not be projected directly
680 towards the water, unless, the information provided shows that sound barriers or other
681 means of noise attenuation shall be placed so as to substantially reduce the amplified sound
682 that would otherwise impact adjacent properties or adjacent street right-of-way.
683
684 b. For all other properties, no outdoor amplified sound plans shall be approved unless the
685 information provided by the applicant indicates that the outdoor sound amplification
686 equipment will be oriented toward the interior of the property, unless the information
687 provided shows that sound barriers or other means of noise attenuation shall be placed to
688 substantially reduce the amplified sound that would otherwise impact adjacent properties
689 or adjacent street right-of-way.
690
691 i. The outdoor amplified sound equipment and any sound barriers or other attenuation
692 devices approved as part of the plan shall comply with any applicable requirements of
693 the Florida Building Code, including any local amendments.
694 ii. No amplified sound equipment shall be operated in a manner which violates Cape Coral
695 Code of Ordinances Chapter 23, Protected species; and
696 iii. Amplified sound equipment shall be placed no higher than six feet above grade.
697
698 F. Specific regulations for multi-family residences; single family attached 3 units or greater; commercial
699 parking lots and parking garages as a standalone use; bars; craft brewery, distilleries, and wineries;
700 mobile food trucks; arenas and amphitheatres; and home occupations are found in Article 5, Chapter
701 12 and 13.
702

Section 4.5.14. Mixed-Use Seven Islands District (MX7)

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- 705 A. Intent and purpose. It is the intent of this district to implement City Council adopted plans to create a
706 comprehensively planned, mixed-use development for the Seven Islands area. The specific purposes
707 of the Mixed-Use Seven Islands District are:
708
709 1. To provide for an integrated mix of uses that includes:
710
711 a. A diversity of housing options;
712
713 b. A diversity of commercial, office, research and development, and institutional uses providing
714 employment as well as goods and services; and
715
716 c. Adequate open space for active and passive recreation that encourages public interaction.
717
718 2. To provide for access via a circulation system and pattern that encourages travel on foot and by
719 bicycle within the neighborhood and the use of public transit for external travel, augmented by
720 locations for automobile parking that do not inhibit such circulation.
721
722 3. To provide, where appropriate, for integration and compatibility of residential uses with
723 commercial, office, research and development, or institutional uses.
724
725 4. To establish land use and design standards that will ensure compatibility with surrounding uses.
726
727 5. To establish standards and procedures through which the land use objectives and guidelines of
728 an approved and adopted master or area plan serve as the basis for evaluating an individual multi-
729 use neighborhood proposal.
730
731 6. To authorize development that is consistent or may be shown to be consistent with applicable
732 laws, regulations, and restrictions addressing environmental protection.
733
734 B. Where applicable. Land classified MX7 must be in an area for which an approved and adopted Use
735 same language as above master or area plan recommends mixed use development at an appropriate
736 scale.
737
738 C. Location. The location of properties identified as MX7 are limited to those identified in the Seven
739 Islands Master Plan. Properties identified as MX7 are limited to Tracts A-G, and I, and Blocks 6400-
740 6408, Unit 76, Cape Coral Subdivision.
741
742 D. Residential. Any type of dwelling unit as well as any accessory use is allowed, so long as the location
743 and mix of types must be consistent with the Seven Islands Master Plan. A residential use may be
744 intermixed with a nonresidential use or uses in the same block, lot, or building.
745
746 E. Maximum residential dwelling units and non-residential square footage. The maximum number of
747 residential dwelling units is 995 dwelling units, and non-residential square footage is 110,000 square
748 feet, no less than 40,000 of which is a community center. The mix of residential dwelling units and
749 non-residential square footage shall be in accordance with the Seven Islands Master Plan, concept D1.
750

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- 751 F. Compatibility and design standards. All uses must conform to the guidelines of the Seven Islands
752 Master Plan. Uses must be compatible with existing or planned development on or adjacent to the
753 site.
754
755 1. Height and Orientation.
756
757 a. No building may be constructed to a height greater than 8 stories/115 feet, or as indicated in
758 the Seven Islands Master Plan, Concept D1.
759
760 b. A building primarily used for retail or office use must be oriented toward the street on which
761 it fronts. Off-street parking shall be kept to a minimum between the building and the front
762 lot line.
763
764 2. External access and internal circulation.
765
766 a. The internal vehicular circulation system must follow a pattern of intersecting streets that
767 provide alternative routes.
768
769 b. Points of external access and alignments of internal roadways must facilitate use of public
770 transit. This includes providing sufficient rights-of-way for bus pull-outs and bus shelters, as
771 well as transit easements on private streets.
772
773 c. A comprehensive pedestrian and bicycle circulation system must link all uses, with the intent
774 of minimizing walking distances and reducing dependence on the private automobile for
775 internal travel and external access; and include:
776 i. Pedestrian sidewalks within the rights-of-way of Old Burnt Store Road and Tropicana
777 Parkway;
778 ii. Pedestrian pathways and bikeways within open space areas, in addition to the sidewalks,
779 when environmental factors do not prohibit the construction of paths and bikeways; and
780 iii. Safe and convenient access to retail and service uses, community and public facilities, and
781 public transit, carpool, or vanpool services.
782
783 3. Public facilities and utilities.
784
785 a. All utility lines must be placed underground.
786
787 b. Street lighting must be provided in accordance with the site plan.
788
789 G. Green area and public use space requirements. The minimum amount of green area is 30 percent of
790 the gross area of the site. This green area must include the following:
791
792 1. Within the nonresidential area, a plaza for public use;
793
794 2. Within the residential area, a public park or common open space suitable for active or passive
795 recreation within a reasonable walking distance of any area devoted to multi-family or single-
796 family attached dwelling units; and
797

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- 798 3. Integration of active and passive spaces to encourage joint use by employees and residents,
799 subject to the following criteria:
800
801 a. Active open spaces include large, open play fields, local parks, and small recreation areas;
802
803 b. Passive open space areas and preserve natural features such as trees and wetlands; and
804
805 c. Active and passive open spaces will not be isolated from the Seven Islands development.
806
807 H. Surface parking. The form, arrangement, and landscaping of off-street surface parking for multi-family
808 dwellings and commercial uses are designed to avoid large expanses of paved area. Parking shall be
809 away from the street frontage and in the interior of the lot, unless the City Council makes a finding
810 that parking between the building and front lot line will serve the purposes of the district more
811 effectively than an interior location.
812
813 I. Drive-thru lanes prohibited. To encourage pedestrian-friendliness, no use may utilize drive-thru lanes
814 in the MX7 district.
815
816 J. Specific regulations for multi-family residences; single family attached 3 units or greater; commercial
817 parking lots and parking garages as a standalone use; movie theaters; craft brewery, distilleries, and
818 wineries; mobile food trucks; and home occupations are found in Article 5, Chapter 12 and 13.
819

Section 4.5.15. South Cape District

820
821 The South Cape District special regulations are intended to act as a stimulus to development through
822 provisions that permit a flexible approach to infill development within the City's Community
823 Redevelopment Area. Developments providing affordable housing are incentivized by providing greater
824 residential density, and building height than that permitted by right.
825

826
827 Specific conditions for multi-family residential and vehicle fueling stations are in Article 5, Chapter 12.
828

829 A. Maximum Density and Height

830
831 **Table 4.5.15. Maximum Density and Height**

	Maximum Height (stories/feet, whichever is less)	Maximum Density (du/acre)
Baseline	6/95	50
Minimum 20% of Units Affordable	10/120	70

- 832
833 1. All buildings or portions of buildings within 200 feet of the R1 zoning district shall be limited to six
834 stories or 95 feet, whichever is less.
835
836 2. Maximum building height shall not apply to the following building components: elevator and stair
837 bulkheads; solar energy systems; shade devices associated with parking structures or recreational

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838 amenities; skylights or similar components associated with daylighting; and mechanical
839 equipment, provided that such equipment is architecturally screened on all sides.
840

841 B. Standards for site design. Sites shall be designed to incorporate safe and convenient vehicular use
842 areas and pedestrian ways, with landscape, lighting, and signage treatments intended to result in a
843 comprehensive design.
844

845 1. Streets. Streets in the South Cape zoning district are classified as follows:
846

847 a. Primary streets

- 848 i. Cape Coral Parkway
- 849 ii. Coronado Parkway
- 850 iii. SE 47th Terrace

851
852 b. Secondary streets. All streets other than those included as a primary street within the
853 boundaries of the SC district.

- 854 i. Del Prado Boulevard
- 855 ii. Miramar Street
- 856 iii. Lafayette Street
- 857 iv. SE 46th Lane, Street
- 858 v. SE 10th Lane
- 859 vi. Leonard Street

860 c. Local streets. All streets other than those included as a primary or secondary.
861
862

863 2. Building setbacks.
864

865 a. Front. The following front setbacks are established based upon the established street types:

- 866 i. Primary; minimum, 8 feet; maximum 12 feet
- 867 ii. Secondary: minimum 8 feet; maximum None

868
869 b. Side.

- 870
871 i. If adjacent to an alley, a 5-foot setback is required; otherwise, 0.
- 872 ii. If adjacent to single family property, a minimum ten-foot setback, is required inclusive of
873 a five-foot landscaped strip.
- 874 iii. If adjacent to existing ROW, see subsection (a) above.
- 875 iv. If adjacent to a navigable waterway, fifteen feet.
- 876 v. If adjacent to a public utility easement, a minimum 6-foot setback is required.
877

878 c. Rear.

- 879 i. If adjacent to an alley, a 5-foot setback is required.
- 880 ii. If adjacent to single family property, a minimum ten-foot setback, is required inclusive of
881 a five-foot landscaped strip; otherwise 0.
- 882 iii. If adjacent to existing ROW, see subsection (a) above.
- 883 iv. If adjacent to a navigable waterway, fifteen feet
884

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- 885 d. Variations in required setbacks may be approved by the DCD Director to accommodate
886 pedestrian amenities, such as public plazas, pedestrian entries, outdoor dining areas and
887 similar public use areas, or landscaping.
888
- 889 3. Street Frontage Standards:
890
- 891 a. Parking structures or buildings elevated over surface parking lots shall have an occupied
892 ground floor space for a minimum depth of 20 feet from the frontage lines.
893
- 894 b. Properties with a frontage along a primary street, residential 1st floors are permitted beyond
895 a depth of 50 feet from the building setback. Buildings shall have a principal pedestrian
896 entrance on a primary frontage line.
897
- 898 c. Properties with a frontage along a primary that abut an alley, vehicular egress shall be
899 provided from the alley rather than a frontage line.
900
- 901 d. No loading docks and service areas shall be on primary street frontage lines.
902
- 903 e. Outdoor storage areas are not permitted on primary street frontages.
904
- 905 C. Parking Requirements. Parking requirements for the South Cape district can be found in Article 6.
906
- 907 D. Affordable Housing Density Incentive. Density incentives are opportunities offered to property
908 owners and applicants to meet specific development goals while providing benefits to the
909 community at large. Developers who dedicate a minimum of 20% of the total units as affordable
910 will be eligible for increased density in accordance with Table 4.7.4.a Maximum Density and Height.
911
- 912 1. Location of Units. Affordable units must be provided on-site.
913
- 914 2. Maximum Number of Units. Developers shall not dedicate more than 50% of the total units as
915 affordable.
916
- 917 3. Criteria for affordable housing. The affordable housing development incentive shall be available
918 to a development only when an affordable housing incentive development agreement has been
919 entered into by the applicant and the City of Cape Coral and such agreement has been approved
920 by the City Attorney and the City of Cape Coral prior to execution. Amendments to such
921 agreement shall be executed in the same manner as the original agreement. The affordable
922 housing incentive development agreement shall include, at a minimum, the following
923 provisions:
924
- 925 a. Legal description of the land subject to the agreement and the names of its legal and
926 equitable owners;
927
- 928 b. Total number of residential dwelling units in the development;
929

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- 930 c. Minimum number of affordable housing units, categorized by level of household income,
931 type of unit (condominium or rental), and number of bedrooms, required in the
932 development;
- 933
- 934 d. Total number of affordable housing dwelling units permitted in the development;
- 935
- 936 e. Gross residential density of the development;
- 937
- 938 f. Amount of monthly rent for rental units, or the price and conditions under which a
939 condominium unit will be sold, for each affordable housing unit;
- 940
- 941 g. The price of affordable housing units offered for rent or sale shall be based on the number
942 of bedrooms in the unit and shall not exceed low income limits established annually by the
943 United States Department of Housing and Urban Development for the Metropolitan
944 Statistical Area which includes the Cape Coral downtown CRA;
- 945
- 946 h. No affordable housing unit in the development shall be rented or sold to a tenant whose
947 household income has not been verified as an income qualified family. Such verification
948 shall be the responsibility of the owner and shall be submitted to the City for approval.
- 949
- 950 i. No affordable housing unit that is to be sold, leased with option to purchase, or otherwise
951 conveyed by the development shall be sold, leased with option to purchase, or otherwise
952 conveyed to a buyer whose household income has not been verified and certified in
953 accordance with this subsection as low-income family. Such verification and certification
954 shall be the responsibility of the applicant and shall be submitted to the City for approval.
955 It is the intent of this subsection to keep housing affordable; therefore, any person who
956 buys an affordable housing unit must agree, in a lien instrument to be recorded with the
957 Clerk of the Circuit Court of Lee County, Florida, that if he or she sells the property (including
958 the land, the unit, or any combination thereof) within 15 years after his or her original
959 purchase at a sales price in excess of 5% per year of his original purchase price that he or
960 she will pay to the City of Cape Coral an amount equal to the sales price in excess of 5%
961 increase per year. The lien instrument may be subordinated to a qualifying first mortgage
962 at the option of the city. For example, a person originally buys a designated affordable
963 housing unit for \$100,000 and sells it after five years for \$150,000. A 5% increase per year
964 for five years will give a value of \$127,628. Deducting this amount from the sales price of
965 \$150,000 gives a difference of \$22,372. The seller would then owe the City of Cape Coral
966 \$22,372. Payment of this amount would release the first owner from the recorded lien
967 against the property. Such payment shall be maintained in a segregated fund, established
968 by the city solely for affordable housing purposes, and such money shall be used solely to
969 encourage, provide for, or promote affordable housing in the City of Cape Coral;
- 970
- 971 j. No affordable housing unit for which credit is awarded shall be occupied by the applicant,
972 any person related to or affiliated with the applicant, or a resident manager;
- 973
- 974 k. The applicant shall advertise, rent, sell, and maintain the affordable housing unit in a
975 nondiscriminatory manner and make available all relevant information to any person who
976 is interested in renting or purchasing such affordable housing unit. The applicant shall agree

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to be responsible for payment of any real estate commissions and fees. The affordable housing units in the development shall be identified on all building plans submitted to the city and described in the application for affordable housing development incentive;

l. Except as required in this subsection, the applicant shall not disclose to persons, other than the potential tenant, buyer or lender of the particular affordable housing unit or units, which units in the development are designated as affordable housing units;

m. The square footage, construction and design of the affordable housing units shall be the same as market rate dwelling units in the development;

n. The affordable housing units shall be integrated with, and not segregated from, the market rate dwelling units in the development. The conditions contained in the affordable housing incentive development agreement shall constitute covenants, restrictions, and conditions which shall run with the land and shall be binding upon the property and every person having any interest therein at anytime and from time to time. The affordable housing incentive development agreement shall be recorded in the official records of Lee County, Florida, subsequent to the recording of the deed pursuant to which the applicant acquired fee simple title to the property;

o. In the case where a development will occur in more than one phase, the percentage of affordable housing units to which the applicant has committed for the total development shall be maintained in each phase and shall be constructed as part of each phase of the development on the property. For example, if the total development's affordable housing development incentive is based on the provision of 10% of the total dwelling units as affordable housing rental units for low income households with two bedrooms per unit, then each phase shall maintain that same percentage (10% in this case) cumulatively.

p. Each affordable housing unit shall be restricted to remain and be maintained as an affordable housing unit designated in accordance with the affordable housing incentive development agreement for at least 15 years from the issuance of a certificate of occupancy for such unit; and

q. The applicant and owner of the development shall provide on-site management to assure appropriate security, maintenance and appearance of the development and the dwelling units where these issues are a factor.

3. Certificate of Occupancy. A certificate of occupancy shall not be issued to any affordable unit until all affordable housing requirements applicable to that unit are satisfied. If, after the issuance of the first certificate of occupancy, the city determines any requirement in this subsection has not been met, then the city may revoke the certificate of occupancy and would subject the applicant or owner to any penalty imposed by law.

E. Specific regulations for multi-family residences; commercial parking lots and parking garages as a standalone use; vehicle fueling stations; craft brewery, distilleries, and wineries; mobile food trucks; wireless antennas; and home occupations are found in Article 5, Chapter 12 and 13.

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CHAPTER 1 – GENERAL PROVISIONS, ZONING DISTRICTS ESTABLISHED, ZONING USE TABLES

- Section 4.1.** Purpose and Intent
- Section 4.2.** Establishment of Zoning Districts
- Section 4.3.** Zoning District Development Standards
- Section 4.4.** Uses by Zoning District

CHAPTER 2 – SPECIFIC REGULATIONS BY DISTRICT

- Section 4.5.1.** Single-Family Residential (R1)
- Section 4.5.2.** Residential Multi-Family Low (RML)
- Section 4.5.3.** Residential Multi-Family Medium (RMM)
- Section 4.5.4.** Residential Estate (RE)
- Section 4.5.5.** Agricultural (A)
- Section 4.5.6.** Commercial (C)
- Section 4.5.7.** Professional Office (P)
- Section 4.5.8.** Industrial (I)
- Section 4.5.9.** Institutional (INST)
- Section 4.5.10.** Preservation (PV)
- Section 4.5.11.** Commercial Corridor (CC)
- Section 4.5.12.** Neighborhood Commercial (NC)
- Section 4.5.13.** Mixed-Use Bimini District (MXB)
- Section 4.5.14.** Mixed-Use Seven Islands District (MX7)
- Section 4.5.15.** South Cape Downtown District (SC)

CHAPTER 1 – GENERAL PROVISIONS

Section 4.1. Purpose and Intent.

- A. The purpose of this article is to encourage and promote the safety, health, and general welfare of the citizens of Cape Coral, Florida by providing for:
1. Efficiency and economy in the process of development;
 2. Appropriate and best use of land;
 3. Convenience of traffic and circulation of people and goods;
 4. Adequate public utilities and facilities;
 5. Promotion of the civic amenities of beauty and visual interest;
 6. Development in accord with the comprehensive plan by establishing zoning districts;
 7. Regulation of the location and use of buildings, structures, and land; and

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48 8. Regulation of:

- 49 a. Height, bulk, and access to light and air of buildings and structures;
- 50
- 51 b. The area of yards and other open spaces; and
- 52
- 53 c. The density or intensity of development on a given site.
- 54

55
56 B. To accomplish these objectives, the regulations and districts and accompanying zoning map have been
57 designed with reasonable consideration, among other things, to reflect the character of the districts
58 and their suitability for particular uses.

59
60 **Section 4.2. Establishment of Zoning Districts**

61
62 For regulating and restricting the use of land and the erection, construction, reconstruction, altering,
63 moving, or use of buildings and structures, the City of Cape Coral is divided into zoning districts. The City
64 zoning districts are classified as follows:

65
66 A. Residential Zoning Districts

- 67
68 1. Residential Single Family (R-1). This district is established to encourage and protect single-family
69 development and to permit other uses generally compatible with single-family residential uses.
70
- 71
72 2. Residential Multi-Family Low (RML). This district is to accommodate multi-family housing to
73 meet the needs of a diverse community, while ensuring that there is a transition to single-family
74 neighborhoods which protects the integrity of those neighborhoods. The RML district acts as a
75 transition zone from lower density residential to higher density residential or non-residential uses
76 or zoning districts. The RML zoning district should only be established where City water and sewer
77 services are available.
- 78
79 3. Residential Multi-Family Medium (RMM). This zoning district is to accommodate multi-family
80 housing at a higher density than RML to meet the needs of a diverse community. The RMM
81 district also acts as a transition zone from lower density residential areas to non-residential land
82 uses or zoning districts.
- 83
84 4. Residential Estate (RE). This district is established to provide areas for single-family dwellings
85 typically on parcels of 40,000 square feet or more in areas of the city that are rural in character.
86 The RE district permits the keeping of some domesticated livestock for use by the occupants.
- 87
88 5. Agriculture (A). This district is to accommodate agricultural activities and operations which may
89 include crop cultivation; the breeding, raising, or keeping of livestock or fur bearing animals; dairy
90 farming; apiculture; and to allow all accessory uses and structures customarily incidental to those
91 activities.

92 B. Non-Residential Zoning Districts

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- 94 1. Commercial (C). This district is designed to encourage and facilitate commercial activities intended
95 to serve a relatively large trade area, appropriate commercial locations on major thoroughfares
96 in developed areas, and is intended to meet the needs of motorists and other consumers through
97 the provision of automobile-oriented commercial activities to meet the needs of several types
98 and varieties of general commercial activities.
99
- 100 2. Professional Office (P). This district is designed to encourage the compatible development of
101 major professional and related office complexes in areas which are suitable for such activities.
102 The P District may serve as a transition between commercial corridors and nearby residential
103 uses.
104
- 105 3. Industrial (I). This district is to accommodate manufacturing, fabrication, warehousing, and other
106 related activities that typically utilize large work forces, generate semi-tractor trailer traffic, and
107 may produce external impacts such as noxious smells, smoke, or noise.
108
- 109 4. Institutional (INST). This district is to allow for development of nonprofit or quasi-public uses such
110 as religious institutions, libraries, public or private schools, hospitals, or government owned or
111 operated structures. Many of these uses provide meeting places for the citizens of Cape Coral and
112 valuable civic engagement opportunities.
113
- 114 5. Preservation (PV). This district is to identify environmental resources or natural features as areas
115 intended to remain in a predominately natural or undeveloped state to provide resource
116 protection and opportunities for passive recreation and environmental education for present and
117 future generations.
118
- 119 C. Mixed Use Zoning Districts
120
- 121 1. Commercial Corridor (CC). This district is established to implement the recommendations of
122 the Pine Island Road Master Plan and to promote such uses as retail, office, limited
123 warehouse and light manufacturing, multi-family residential and large-scale commercial
124 retail uses.
125
- 126 2. Neighborhood Commercial (NC). This district is intended to create a variety of dynamic walkable,
127 mixed-use environments; provide a range and mix of commercial and housing choices near each
128 other; and to create quality usable public spaces. The NC District utilizes form-based design
129 standards and provides development options based on parcel size.
130
- 131 3. Mixed Use Seven Islands (MX7). This district is intended to implement master plan
132 recommendations for the Seven Islands Area consistent with the Seven Islands ~~Sub District Vision~~
133 ~~Plan~~. A further objective is to foster a sense of place and create a destination environment in
134 northwestern Cape Coral. To achieve these objectives, the MX7 district allows a more flexible
135 approach to comprehensive design and coordinated development of a multi-use neighborhood
136 than is possible under other zoning classifications.
137
- 138 4. Mixed Use Bimini (MXB). This district is to promote redevelopment and enhancement of the
139 Bimini Basin area of Cape Coral to create a destination for residents and visitors, consistent with
140 the Downtown Mixed Future Land Use Classification and the Bimini Basin Revitalization and

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Implementation Plan. This district encourages mixed-use development. Existing commercial and professional buildings will be supplemented with entertainment activities and a wide diversity of housing types to create a vibrant work, live, shop, and play district that serves the entire city and region.

4-5. This district is intended to implement master plan recommendations for the Bimini Basin Area. A further objective is to foster a sense of place and create a destination environment in southeastern Cape Coral. To achieve these objectives, the MXB district allows a more flexible approach to comprehensive design and coordinated development of a multi-use neighborhood than is possible under other zoning classifications.

5-6. South Cape (SC). This district is to promote redevelopment and enhancement of the traditional commercial center of Cape Coral into a more compact and walkable form growth and to create a destination for residents and visitors. This district encourages mixed-use development. Existing commercial and professional buildings will be supplemented with entertainment activities and a wide diversity of housing types to create a vibrant work, live, shop, and play district that serves the entire city and region.

It is intended that the South Cape regulations act as a stimulus to development through provisions that permit a flexible approach to infill development on various lot sizes, as well as special provisions related to particular locations within the district. Therefore, many of the provisions contained herein, including uses and dimensional regulations, are regulated by lot size, or the extent of roadway frontage or a combination thereof.

6-7. Planned Unit Development (PUD). This district is designed for development as a cohesive unit, where uses and innovations in design and layout of the development provide public benefits when compared to standard zoning or uniform lot and block subdivision patterns and design features.

Section 4.3. Zoning District Development Dimensional Standards

The purpose of this section is to identify the bulk, area, and dimensional standards for construction in each zoning district.

Table 4.3.1. Zoning District Dimensional Standards

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ZONE-DISTRICT	ZONE-DISTRICT DIMENSIONS								
	Lot and Structure		Minimum Setbacks (feet)						Maximum Height (feet)
	Minimum Lot Area (Square ft.)	Maximum FAR	Front	Front, Cul-de-Sac	Side	Rear	Double Frontage	Corner Lot Side	
RESIDENTIAL									
R-1	10,000*	None	25	18	7.5	20/10	25	10	38
RML	10,000	None	25	18	7.5	20/10	25	10	38
RMM	43,560	None	25	18	6	26	25	10	50
RE	40,000	None	50	36	35	35	50	25	38
A	None**	None	50	36	35	35	50	25	38
NON-RESIDENTIAL									
C	None	1	6	None	0/6	10	6	10	None
CC	None/MF 4-æ	1	15	None	0/6	15	15	10	None
P	None	1	6	None	6/6	10	6	10	None
†	None	1	20	None	0/6	10	20	10	None
INST	None	1	25	None	15	25	25	10	60
PV	None	None	50	None	50	50	50	10	38

175 * See Section 5.11.6.K (Micro cottage standards)

176 ** 5 acres for non-residential uses

177

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ZONE DISTRICT DIMENSIONS									
ZONE DISTRICT	Lot and Structure		Minimum Setbacks (feet)						Maximum Height (feet)
	Minimum Lot Area (Square ft.)	Maximum FAR Impervious Surfaces	Front	Front-Cul-de-Sac	Side	Rear	Double Frontage	Corner Lot Side	
RESIDENTIAL									
R-1	10,000 ¹	60% None	25	18	7.5	20/10	25	10	38
RML	10,000	None60%	25	18	7.5	20/10	25	10	38
			Setbacks for duplexes						
			36/30	N/A	7.5	20/10	25	10	38
RMM	43,560	None	25	18	6	26	25	10	50
RE	40,000	None	50	36	35	35	50	25	38
A	None ²	None	50	36	35	35	50	25	38
¹ See Section 5.11.6.K (Micro cottage standards)									
² Non-residential uses in the A zoning district require 4 acres									
NON-RESIDENTIAL									
C	None	1	6	None	0/6	10	6	10	None
CC	None	1	15	None	0/6	15	15	10	None
	MF use 4 Acres								
P	None	1	6	None	0/6	10	6	10	None
I	None	1	20	None	0/6	10	20	10	None
INST	None	1	25	None	15	25	25	10	60
PV	None	None	50	None	50	50	50	10	38

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179 **Section 4.3.2 Setbacks for Residential-Zoned Sites Abutting Platted Waterways.**
180
181 For irregular residential-zoned sites abutting platted waterways, the front, side, and rear setbacks may be
182 assigned by the Director based on one or more of the following factors:
183
184 A. The setbacks promote reasonable development of the site;
185
186 B. The setbacks are generally consistent with the front, side, and rear setbacks of adjacent sites; or
187
188 C. The setbacks do not constitute a special privilege with respect to the limitations placed on other
189 properties in the area.

191 **Section 4.3.2-3 Projections and Encroachments into Setbacks**

192
193 Encroachments into required setbacks. Every part of the required setbacks on a parcel shall be open and
194 unobstructed from 30 inches above the ground, as measured from the average elevation of the crown of
195 road along the property frontage, except as provided below or as shown in Table 4.3.2, below.

- 196
197 A. Structures less than 30 inches in height are not considered encroachments into minimum required
198 setbacks.
199
200 B. Bermed earth, plant materials, sidewalks, and driveways are not considered encroachments.

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C. Encroachments into required setbacks:

1. Cornices, overhangs, decorative awnings with no ground support installed over windows and at entrances, eaves and gutters, balconies, and means of egress may project a maximum of three feet into required setbacks.
2. Awnings requiring pole supports to be placed in a setback area, or those without pole supports which encroach more than 3 feet into required setbacks, may be approved, in districts other than RE or R1, at the discretion of the Director of Community Development. Such awnings must function as decorative architectural elements as opposed to garage, carport, or other similar storage facilities.
3. ~~All existing Air conditioning, pool equipment, and generators permitted and installed prior to the effective date of this ordinance~~ may be maintained and replaced provided the new equipment does not encroach more than three feet into any required setback. All ~~newly installed or replacement~~ air conditioners, generators, and pool equipment ~~installed after the effective date of this ordinance~~ must comply with all setback requirements and be out of easements.
4. Permitted encroachments into required setbacks are not allowed to encroach into utility easements (See Article 5, Section 5.1.6).

Table 4.3.2-3 Permitted Setback Encroachments

Projection or Feature	Encroachment (measured from primary structure envelope)			Max Height
	Front Yard	Side Yard	Rear Yard	
Architectural features	2 ft.	2 ft.	2 ft.	N/A
Awnings and canopies	3 ft.	3 ft.	3 ft.	N/A
Balconies	3 ft.	3 ft.	3 ft.	N/A
Chimneys	N/A	2 ft.	2 ft.	per Building Code
Eaves, gutters, and overhangs	3 ft.	3 ft.	3 ft.	N/A
Porches	5 ft.	3 ft.	3 ft.	N/A
Solar Photovoltaic (PV) Arrays, attached to primary structure	N/A	3 ft. N/A	3 ft. N/A	3 ft. above a peaked roof, 10 ft. above a flat roof
Mechanical equipment: AC, generator, pool equipment	N/A	5 ft.	5 ft.	N/A
Stairways	5 ft.	3 ft.	5 ft.	N/A

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Ornamental Walls	5 ft.	1.5	5 ft.	30 inches
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Section 4.4. Uses by Zoning District – Use Hierarchy.

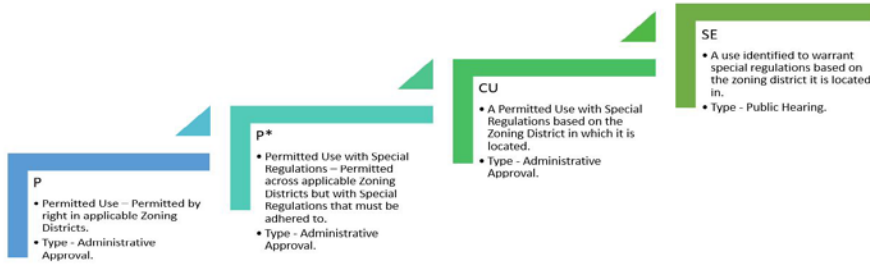
A. Classification of Uses Listed in Table 4.4.

1. Permitted Uses. Uses that are allowed by right. These uses are shown in the table with a “P”.
2. Permitted Uses with Specific Regulations. Uses that are permitted with specific regulations that apply in all zoning districts where those uses are permitted. The specific regulations are provided in Article 5, Chapter 11. These uses are shown in the table with a “P*”.
3. Conditional Uses. Uses which are generally appropriate in a Zoning district. Conditional uses are permitted uses which, because of potential impacts, may require reasonable special limitations or conditions of approval peculiar to the use for the protection of the public health, safety, or welfare and the integrity of the Comprehensive Plan. The specific requirements for conditional uses are provided in Article 5, Chapter 12. These uses are shown in the table with a “CU”.
4. Special Exception Uses. Those uses or structures that may not be appropriate generally or without restriction throughout a district but which, if controlled as to ~~number~~, area, location, or their relationship and potential impacts to nearby residences or neighborhoods, would be acceptable. These uses are shown in the table with an “SE”.
5. Prohibited Uses. Any use not specifically listed as a permitted use, a permitted use with specific regulations, a conditional use, a special exception use, a permitted accessory use, or permitted through a similar use determination shall be considered expressly prohibited.

B. Uses not listed in Table 4.4.

1. Accessory Uses. Accessory uses are customarily associated with and are incidental and subordinate to such principal uses. An accessory use shall be subject to the same regulations that apply to the principal use in each district, except as otherwise provided.
2. Temporary Uses. Uses that are deemed temporary in nature regulated by ~~separate ordinance~~ Article 5, Chapter 10 or the City Code of Ordinances, shall not be subject to the standards and requirements as set forth in this article, except that the City may impose conditions which may include limiting the period of approval, imposing hours of operations, operational standards to minimize impacts on surrounding properties, and any other conditions deemed necessary to minimize detrimental impacts to the welfare of the community. These uses are listed in Article 5, Chapter 10 or the City Code of Ordinances.
3. Similar Use Determinations. See Article 3-~~3~~ Section 3.3.3.

**CITY OF CAPE CORAL, FLORIDA
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USE HIERARCHY**



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Table 4.4 Use Table

The following table of permitted uses, when read together with the definitions set forth in Article 11 shall be used to determine the zoning district in which a given use may be established.

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Use Table

P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted

Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts							
	R 1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC			
															PRI	SEC	LOC	
Residential	Single-family	P	P		P	P												
	Duplex		P*															
	Multi-family		CU	P							CU	CU	CU	CU	CU	CU	CU	CU
	Single-family Attached - 3 or more		CU	P							CU	CU	CU	CU				
	Micro-Cottage	P*																
	Assisted Living Facility		SE	P		P	P				P	P				P		
	Family Day Care Home –5 or fewer	P	P	P	P	P												
	Community Residential Home – up to 6 res	P	P	P	P	P												
	Community Residential Home – 7 to 14 residents		P	P														
	Model Home	P*	P*		P*													
	Home Business	CU	CU		CU	P												
Home Occupation	P*	P*	P*	P*	P*							P*	P*	P*	P*	P*	P*	
Public and Institutional Uses	Animal Shelter				P			SE	SE									
	Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Educational Facilities – Primary and Secondary	P	P	P	P	P			P			P			P			
	Educational Facilities – Vocational Schools			SE			P	P	P		P				P			
	Educational Facilities – Colleges and universities							P	P									
	Essential Service Facilities - Major	SE	SE	SE	SE	SE	P	P	P	SE	P	SE	SE	SE	SE	SE	SE	SE
	Essential Service Facilities - Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Government Office Facilities				P	P	P		P		P	P	P	P	P	P	P	P
	Hospital						P		P		P							
	Public Parks and Recreational Facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Public Safety – Police/Fire	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

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Use Table

P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted

Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts							
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC			
																PRI	SEC	LOC	
Food and Beverage	Bar							P					P	P	P	P	P	P	P
	Brewpub							P					P	P	P	CU	P	P	P
	Craft Brewery, Distillery, Winery							p*					p*	p*	p*	p*	p*	p*	p*
	Mobile Food Trucks-Vendor							p*	p*	p*	p*		p*	p*	p*	p*	p*	p*	p*
	Restaurant, no drive-thru							SE	P				P	P	P	P	P	P	P
	Restaurant, drive-thru								P	P			P						P
Lodging	Bed and Breakfast	SE	SE	SE	SE	SE													
	Campground					P													
	Hotel/Motel							P								P	P	P	
	Resort	p*	p*	p*				P											
	RV Park/Resort																		

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ARTICLE 4 – ZONING DISTRICTS**

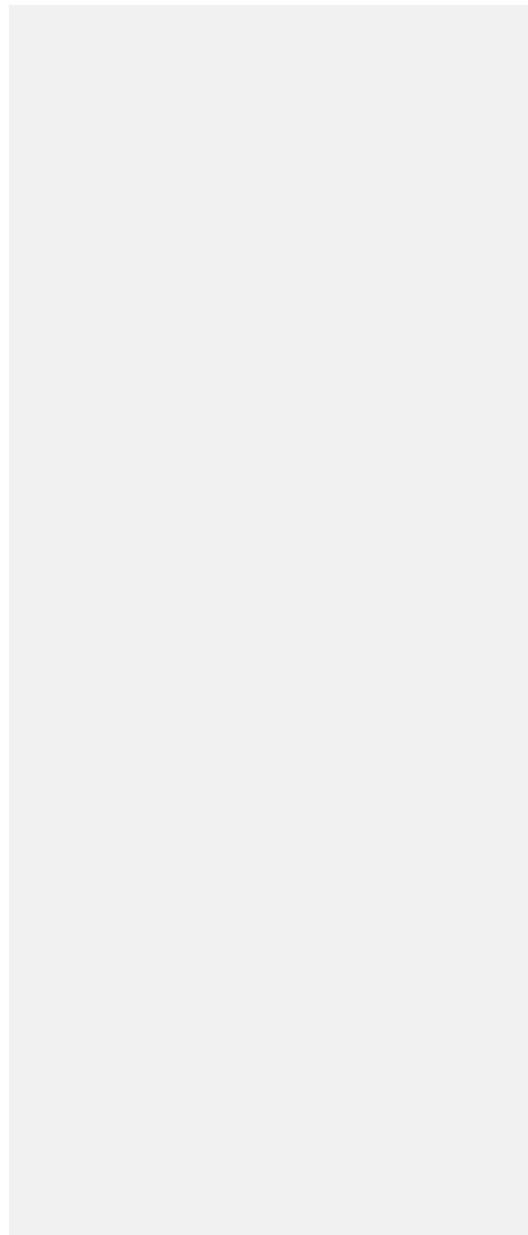
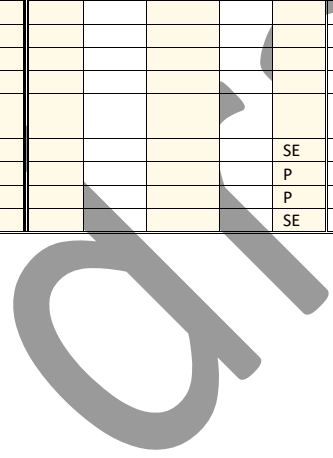
Use Table																			
P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted																			
Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts							
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC			
																PRI	SEC	LOC	
Commercial and Professional Services	Animal Kennel, Indoor				P	P		P				P			P		P	P	
	Animal Kennel, Outdoor					P													
	Day Care Facilities – Adult or Child		CU*	CU*	CU	CU*	P	P		P		P	P		P		P	P	
	Banks and Finance - no drive thru						P	P				P	P			P	P	P	
	Banks and Finance w/ drive thru						P	P				P						P	
	Building and Construction w/o outdoor storage/display						P	P				P	P		P	P	P	P	
	Building and Construction w/ outdoor storage/display							CU*				CU*							
	Self-Storage Facilities							p*				p*							
	Personal Services						P	P				P	P	P	P	P	P	P	
	Pharmacy – no drive through						P	P				P	P	P	P	P	P	P	
	Pharmacy with drive through							P				P						P	
	Professional Offices						P	P				P	P	P	P	P	P	P	
	Professional Services						P	P				P	P				P	P	
	Radio and TV Station									P	P		P	P				P	P
	Repair Shops DEFINITION							P	P			P	P					P	P
Retail							P				P	P	P	P	P	P	P	P	
Retail >50,000 sq. ft. per tenant							P				P	SE			SE	SE	SE		

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Use Table

P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted

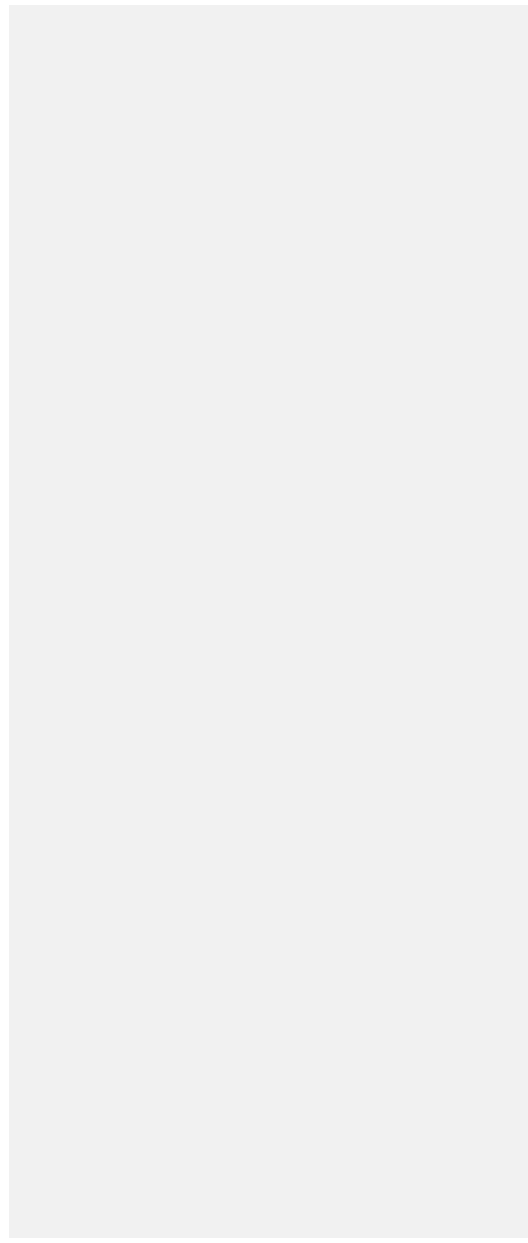
Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC		
																PRI	SEC	LOC
Agriculture	Animal Boarding					P												
	Community Garden	CU	CU	CU	CU	P				P								
	Farms – Produce & Livestock					P												
	Greenhouse / Nursery					P					P							
	Outdoor storage – Agricultural					P												
	Stable				P	P												
	Roadside Food and Vegetable Stand					P*												
Industrial	Dry Cleaning/Laundry Plant									P								
	Extraction w/ancillary use									P								
	Industrial, Heavy									P								
	Industrial, Light									P		SE						
	Laboratory – medical, research, testing							SE	P	SE		SE						
	Energy Resource Generation					SE				P								
	Storage, Outdoor Screened					P			P	SE		CU						
	Storage, Outdoor					P			P									
	Solid Waste Transfer					SE				SE								



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Use Table																		
P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted																		
Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MXB	MX7	SC		
																PRI	SEC	LOC
Places of Assembly	Amphitheatres/ Arenas					SE				SE						SE	SE	SE
	Banquet Hall							P				P	P			P	P	P
	Clubs, Private and Fraternal							P				P	P			P	P	P
	Community Centers									P				P	P	P	P	P
	Cultural and Civic Facilities							P		P	SE			P		P	P	P
	Movie Theaters							P				P	P	P	P	P	P	P
	Religious Institution	CU	CU	CU	CU	CUP	P	P		P		P	P	P		P	P	P
Other	Cemetery / Mausoleum					P				P								
	Crematory								P			P						
	Funeral Homes							P	P			P	P			P	P	
	Wireless Antennas Wireless Communication Facilities					p*	p*	p*	p*	p*		p*	p*			p*	p*	p*
	Solar Arrays					p*				p*	p*							

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CHAPTER 2. SPECIFIC REGULATIONS BY DISTRICT

This chapter establishes specific regulations for uses, activities, or structures within a zoning district.

Section 4.5.1. Single-Family Residential (R1)

Specific regulations for micro-cottages, model homes, ~~childcare facilities~~, and home occupations are in Article 5, Chapter ~~11~~10.

Specific conditions for home-based businesses and religious institutions are in Article 5, Chapter ~~12~~11.

Section 4.5.2. Residential Multi-Family Low (RML)

Specific regulations for duplexes, model homes, and home occupations are in Article 5, Chapter ~~11~~10.

Specific conditions for multi-family residences, single-family attached, home-based businesses, ~~day care facilities~~ and religious institutions are in Article 5, Chapter ~~12~~11.

Section 4.5.3. Residential Multi-Family Medium (RMM)

Specific regulations for home occupations are in Article 5, Chapter ~~11~~10.

Specific conditions for day care facilities and religious institutions are in Article 5, Chapter ~~12~~11.

Section 4.5.4. Residential Estate (RE)

A. Specific regulations for model homes and home occupations are in Article 5, Chapter ~~11~~10 and 12.

Specific conditions for home-based businesses, ~~day care facilities~~ and religious institutions are in Article 5, Chapter ~~12~~11.

B. Non-domestic animals.

1. Non-domestic animals regulated in this section are considered to be a pet or for household consumption, and shall not be used for any commercial purposes.
2. Non-domestic animals are only allowed in the Residential Estate zoning district for sites with a Low Density Residential II Future Land Use Map classification pursuant to the regulations below and the requirements of the City Code of Ordinances.
3. Horses. The keeping of horses, including foals and yearlings, is permitted in the Residential Estate zoning district regardless of the Future Land Use Map classification. Any roofed structure for shelter of such animals shall be setback at least 100 feet from any property line.

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- 392 4. Cattle, mules, goats, sheep, swine, and poultry. The keeping, raising, and breeding of non-
393 domestic animals, including cattle, mules, goats, sheep, swine, and poultry may be permitted
394 in the Residential Estate as follows:
395
396 a. Lot size. The minimum lot area required for the keeping, raising, and breeding of non-
397 domestic animals, as identified in this section, is 100,000 square feet.
398
399 b. Animals within this subsection may not be kept or allowed to run within 100 feet of any
400 zoning district other than the Residential Estate (RE) within the Low Density Residential II
401 Future Land Use Map classification and Agricultural zoning districts.
402
403 c. Buildings or other roofed structures or enclosures for the keeping of animals within this
404 subsection must be set back a minimum of 150 feet from any zoning district other than
405 Residential Estate (RE) or Agricultural (A) zoning districts, under separate ownership.
406
407 d. The keeping and raising of non-domestic animals within this subsection is permitted in the
408 Residential Estate zoning district for personal use only, or for youth or farm-education
409 programs such as 4-H or The National FFA Organization.

410
411 C. Accessory structures. Accessory structures in the Residential Estate zoning district shall not have a
412 maximum size.
413

414 **Section 4.5.5. Agricultural (A)**

415
416 A. Specific regulations for ~~commercial recreation with outdoor uses~~, RV ~~parks/resorts~~, wireless
417 ~~antennas/communication facilities~~, and home occupations are in Article 5, Chapter ~~11-10 and 12~~.

418
419 ~~B. Specific conditions for day care facilities and religious institutions are in Article 5, Chapter 12-11.~~

420
421 ~~B. C.~~ Carports, garages or other buildings not used as a dwelling and customarily incidental
422 to the principal permitted use of the premises.

423 ~~B-C. A minimum of five acres is required for all non-residential uses.~~

424
425 **Section 4.5.6. Commercial (C)**

426
427 Specific regulations for commercial parking lots and parking garages as a standalone use, craft brewery,
428 distillery, and wineries, ~~building and construction with outdoor display and storage~~, mobile food
429 ~~trucks/vendors~~; and storage, ~~neighborhood storage~~, and wireless ~~antennas-communication facilities~~ are
430 found in Article 5, Chapter ~~11-10 and 12~~.

431
432 Specific conditions for vehicle repair, minor, vehicle fueling stations, ~~self-storage facilities~~, and ~~building~~
433 ~~and construction with outdoor display~~ are in Article 5, Chapter ~~12-11~~.

434
435 **Section 4.5.7. Professional Office (P)**

436
437 Specific regulations for mobile food ~~trucks/vendors~~ and wireless ~~antennas-communication facilities~~ are
438 found in Article 5, Chapter ~~11-10~~.

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Section 4.5.8. Industrial (I)

Specific regulations for mobile food ~~trucks-vendors~~ and wireless ~~antennas-communication facilities~~ are found in Article 5, Chapter ~~11-10~~.

Section 4.5.9. Institutional (INST)

- A. Specific regulations for mobile food ~~trucks-vendors~~ and wireless ~~antennas-communication facilities~~ are found in Article 5, Chapter ~~11-11~~.
- B. Outdoor storage that is accessory to a principal use shall be screened from view from all rights-of-way by an opaque fence or wall.

Section 4.5.10. Preservation (PV)

Reserved.

Section 4.5.11. Commercial Corridor (CC)

Table 4.5.11.

Commercial Corridor Development Parameters		
	Development Area	
	0 – 3.99 acres	4 acres or greater
Free-standing Commercial Development Area	100%	
Maximum FAR	1.0	
Free-standing Residential Minimum Density	Not allowed	12 du/acre
Maximum Density	Not allowed	25 du/acre
Mixed-Use Minimum Density	3 du/acre	12 du/acre
Maximum Density	12 du/acre	25 du/acre
Maximum FAR	1.0	2.0
Minimum Front Setback	20 ft.	20 ft.
Minimum Side Setback	6 ft.	6 ft.
Min. Rear Setback	10 ft.	10 ft.

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Specific regulations for ~~commercial parking lots and parking garages as a standalone use~~; craft brewery, distilleries, and wineries, mobile food ~~trucks-vendors, neighborhood storage, building and construction with outdoor display and storage~~ and wireless antennas are found in Article 5, Chapter ~~11-10 and 12~~.

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Specific conditions for multi-family residential, single-family attached with 3 units or greater, ~~building and construction with outdoor storage, and screened~~ outdoor screened storage, and self-storage facilities are in Article 5, Chapter 1211.

Section 4.5.12. Neighborhood Commercial (NC)

- A. Specific regulations for multi-family residences; single family attached 3 units or greater; commercial parking lots and parking garages as a standalone use; vehicle fueling stations; craft brewery, distilleries, and wineries; mobile food trucks; wireless antennas; and home occupations are found in Article 5, Chapter ~~11-10~~ and 1211.

Specific conditions for multi-family residential, single-family attached with 3 units or greater, and vehicle fueling stations are in Article 5, Chapter 1211.

- B. Mix of uses. Development in the NC district is encouraged to have a mix of residential and non-residential uses, however, a mix of uses is not required.
- C. Use areas. All land areas within developments in the NC District shall be categorized as one of the three following use areas:
1. Free-standing non-residential. Free-standing non-residential areas include the footprint and land areas associated with buildings that contain no residential units.
 2. Free-standing residential. Free-standing residential areas include the footprint and land areas associated with buildings that contain residential units and buildings that contain non-residential floor area usage that is less than 30% of the building's floor area. In calculating the floor area of the building, the total floor area of the building is the floor area of the building remaining after the area of any structured parking is excluded. Also, any pre-existing single-family residences do not necessarily constitute free-standing residential development, unless such residences otherwise meet the criteria for such development.
 3. Mixed-Use. Mixed-use areas include the footprint and land areas associated with compound use buildings that shall mean buildings with at least 30% of their floor areas allocated to non-residential uses.
- D. Density, intensity, and use area allocations.
1. The allowable densities, intensities, and use area allocations within the NC District may vary with the land area allocated to each use in a development project.
 2. A development can consist of one or more properties that are the subject of a single application for development.
 3. If an application includes properties that are not contiguous, the application must demonstrate that the properties function as a unified development.

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515
516 4. The land area that may be allocated to any of the three use area allocations varies with the size
517 of the development project, with generally increasing flexibility as a function of the total land
518 area of the development. Densities and intensities associated with any of the three use area
519 categories apply only to the land area of the project that is allocated to that specific use. In
520 determining the land area within any of the three use area allocations, the area of any common
521 areas for surface water management, parking, landscaping, and circulation shall be apportioned
522 among the three use area allocations in the same proportion as the non-common areas relate
523 to the area of the development, excluding common areas.

524
525 Table 4.5.12.

Neighborhood Commercial Development Parameters			
	Land Area of Development Project		
	1 acre or less	1 acre – 19.99 acres	20 acres or greater
Free-standing Commercial Development Area Maximum FAR	0-100% 1.0	25%-75% 1.0	25%-75% 1.0
Free-standing Residential Development Area Minimum Density Maximum Density	N/A N/A N/A	25%-75% 12 du/acre 25 du/acre	25%-75% 12 du/acre 25 du/acre
Mixed-Use Development Area Minimum Density Maximum Density Maximum FAR	0-100% 3 12 du/acre 1.0	0-100% 12 du/acre 25 du/acre 2.0	0-100% 12 du/acre 25 du/acre 2.0
Build-to / Front Setback	6 ft. – 10ft.	10 ft.	10 ft.
Minimum Side Setback	0 or 6	0 or 6	0 or 6
Min. Rear Setback	6	6	6

527
528 E. Limitations on density and intensity within the NC District. In the Urban Services Reserve Area,
529 residential uses are restricted to 4.4 dwelling units per acre and non-residential development is
530 limited to uses that do not generate an estimated flow of more than 880 gallons of sewage per acre
531 per day.

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- 532
533 F. Use area allocations. All developments in the NC District shall be categorized as one of the three
534 following use areas:
535
536 1. Free-standing non-residential. Free-standing non-residential areas contain no residential units.
537
538 2. Free-standing residential. Free-standing residential areas include the footprint and land areas
539 associated with buildings that contain residential units and buildings that contain non-
540 residential floor area usage that is less than 50% of the building's ground floor area.
541
542 3. Pre-existing single-family residences do not constitute free-standing residential development.
543
544 4. Mixed-Use. Mixed-use areas include the footprint and land areas associated with mixed-use
545 buildings with at least 50% of the ground floor areas allocated to non-residential uses.
546
547 G. Use Area Calculations
548
549 1. The uses of a building (residential, non-residential, mixed-use) shall be calculated by the floor
550 area occupied by a use excluding any structured parking areas.
551
552 2. Developments that incorporate non-residential and residential uses shall clearly indicate the
553 land areas (square footage, percentage of development site, and locations) to be used for non-
554 residential, residential, and mixed-use, as well as the uses proposed within each of the
555 designated areas.
556
557 3. In determining land area within any of the three use area allocations common areas, including
558 surface water management, parking, landscaping, and circulation shall be distributed among
559 the three use area allocations in the same proportion as the non-common areas.
560
561 H. Development Standards
562
563 1. Drive-thru facilities are prohibited.
564
565 2. Loading Docks and Service Areas.
566
567 I. All loading docks and building service areas containing air handling equipment, generators, meters,
568 etc., shall be screened by a masonry wall from a pedestrian-level view from any adjacent residential
569 future land use category, public sidewalk, or public street, excluding alleys.
570
571 J. Such walls shall be designed to appear as an architectural extension of the principal building and
572 incorporate architectural trim and features consistent with the adjacent facade.
573
574 K. Walls required for screening loading docks or building service areas shall not exceed the height
575 limitations provided in Article 5 of this code unless approved by the DCD Director.
576
577 L. On sites greater than one acre the following shall apply:
578

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- 579 1. The first story of the building frontage shall be at least 75% of the parcel width as measured
580 along the front property line. For adjoining parcels that are being developed simultaneously as
581 one site with one or more buildings, this percentage applies to the combination of lots and
582 building frontages.
583
584 2. At least 40% of the building frontage shall be built at the minimum front setback line.
585
586 3. Off-street parking spaces shall not be within the front yard.
587
588 4. Outdoor display of cars, boats, motorcycles, and vehicles is prohibited.
589
590 5. Deviations from the requirements of this section may be approved pursuant to Article 3 of this
591 code.
592

593 **Section 4.5.13. Mixed-Use Bimini (MXB)**
594

- 595 A. Mix of Uses Allowed. Any type of dwelling unit as well as any accessory use is allowed, so long as the
596 location and mix of types is consistent with the Bimini Basin Revitalization and Implementation Plans.
597 A residential use may be intermixed with a nonresidential use or uses in the same block, lot, or
598 building.
599
600 B. Maximum Height and Density.
601
602 1. The maximum shall be 50 dwelling units per acre.
603
604 2. The maximum height shall be 8 stories or 115 feet.
605
606 3. Developments that include at least 20% of the total units as affordable or workforce housing shall
607 permit a maximum density of 75 dwelling units an acre and a maximum height of 12 stories or
608 150 feet.
609
610 C. Compatibility and design standards. All uses must conform to the guidelines of the Bimini Basin
611 Revitalization and Implementation Plan. Uses must be compatible with existing or planned
612 development on or adjacent to the site.
613
614 1. Orientation, and Design.
615
616 a. A building facing public streets, excluding alleys, must provide a public entrance.
617
618 b. The first story of all non-civic buildings within the MXB shall provide shade via awnings,
619 canopies, or similar features for no less than 50% of the building length.
620
621 c. No less than 25% of building wall frontage, as measured by square footage, on major streets
622 must have transparent doors and glazing or windows.
623
624 d. Office uses may only be comprise 20% of the ground floor public street facing building façade.
625

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- 626 e. For properties with frontages on more than one street, ground floor storefront windows shall
627 be located on a minimum of two public streets.
628
- 629 f. No less than 30% of all upper floor street facing building facades shall ~~be fenestrated~~have
630 windows.
631
- 632 g. With the exception for bathroom and kitchen mirrors, windows shall be transparent; n~~No~~
633 mirror-type or dark-tinted, ~~or colored glass~~ is permitted for windows and doors in the MXB
634 district.
635
- 636 h. Window signs are prohibited.
637
- 638 ~~i. Ground floor window sills shall be no more than 24 inches above grade.~~
639
- 640 ~~j. No wall-in or window-in air conditioning units are permitted.~~
641
- 642 ~~k. All HVAC, mechanical and electrical equipment shall not be visible from the street.~~
643
- 644 2. External access and internal circulation.
645
- 646 a. Drive-thru facilities are prohibited.
647
- 648 b. The internal vehicular circulation system must follow a pattern of intersecting streets that
649 provide alternative routes.
650
- 651 c. Points of external access and alignments of internal roadways must facilitate use of public
652 transit. This includes dedication of rights-of-way sufficient for bus pull-outs and bus shelters,
653 as well as transit easements on private streets.
654
- 655 d. A comprehensive pedestrian and bicycle circulation system must link all uses, with the intent
656 of minimizing walking distances and reducing dependence on the private automobile for
657 internal travel and external access; and include:
658
- 659 i. Pedestrian sidewalks within the rights-of-way of Cape Coral Parkway;
660 ii. Pedestrian pathways and bikeways within open space areas, in addition to the sidewalks;
661 and
662 iii. Safe and convenient access to retail and service uses, community and public facilities, and
663 public transit, carpool, or vanpool services.
664
- 665 3. Public facilities and utilities.
666
- 667 a. All utility lines must be placed underground.
668
- 669 b. Street lighting must be provided.
670
- 671 D. Green area and public use space requirements. The minimum amount of green area is 10 percent of
672 the gross area of the site. This green area must include the following:

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1. Within the nonresidential area, a plaza for public use;
 2. Within the residential area, a public park or common open space suitable for active or passive recreation within a reasonable walking distance of any area devoted to multi-family or single-family attached dwelling units; and
 3. Street trees are required on public streets. Street trees shall be placed at a maximum of 30' on center.
- E. Outdoor sound amplification. In addition to the requirements found in Section 5.9.3, the following regulations shall apply:
1. Sound amplification devices shall be oriented toward the use hosting the device, and shall not be oriented toward surrounding residential uses.
 2. A proposal to establish an outdoor venue in the MXB district is required to submit a site plan amendment. All proposed outdoor venues associated with a new business shall submit a site plan application to the City which shall be subject to review and approval by the HEX. The site plan amendment shall be reviewed in accordance with the following:
 - a. For waterfront properties, no site plan amendment shall be approved unless the information provided by the applicant indicates that the outdoor sound amplification equipment will be oriented and located in a way that sound will not be projected directly towards the water, unless, the information provided shows that sound barriers or other means of noise attenuation shall be placed so as to substantially reduce the amplified sound that would otherwise impact adjacent properties or adjacent street right-of-way.
 - b. For all other properties, no outdoor amplified sound plans shall be approved unless the information provided by the applicant indicates that the outdoor sound amplification equipment will be oriented toward the interior of the property, unless the information provided shows that sound barriers or other means of noise attenuation shall be placed to substantially reduce the amplified sound that would otherwise impact adjacent properties or adjacent street right-of-way.
 - i. The outdoor amplified sound equipment and any sound barriers or other attenuation devices approved as part of the plan shall comply with any applicable requirements of the Florida Building Code, including any local amendments.
 - ii. No amplified sound equipment shall be operated in a manner which violates Cape Coral Code of Ordinances Chapter 23, Protected species; and
 - iii. Amplified sound equipment shall be placed no higher than six feet above grade.
- F. Specific regulations for multi-family residences; single family attached 3 units or greater; commercial parking lots and parking garages as a standalone use; bars; craft brewery, distilleries, and wineries; mobile food trucks; arenas and amphitheatres; and home occupations are found in Article 5, Chapter 12 and 13.

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Section 4.5.14. Mixed-Use Seven Islands District (MX7)

- 720
721
722 A. Intent and purpose. It is the intent of this district to implement City Council adopted plans to create a
723 comprehensively planned, mixed-use development for the Seven Islands area. The specific purposes
724 of the Mixed-Use Seven Islands District are:
- 725
726 1. To provide for an integrated mix of uses that includes:
- 727 a. A diversity of housing options;
- 728 b. A diversity of commercial, office, research and development, and institutional uses providing
729 employment as well as goods and services; and
- 730 c. Adequate open space for active and passive recreation that encourages public interaction.
- 731
732
733 2. To provide for access via a circulation system and pattern that encourages travel on foot and by
734 bicycle within the neighborhood and the use of public transit for external travel, augmented by
735 locations for automobile parking that do not inhibit such circulation.
- 736
737
738 3. To provide, where appropriate, for integration and compatibility of residential uses with
739 commercial, office, research and development, or institutional uses.
- 740
741 4. To establish land use and design standards that will ensure compatibility with surrounding uses.
- 742
743 5. To establish standards and procedures through which the land use objectives and guidelines of
744 an approved and adopted master or area plan serve as the basis for evaluating an individual multi-
745 use neighborhood proposal.
- 746
747 6. To authorize development that is consistent or may be shown to be consistent with applicable
748 laws, regulations, and restrictions addressing environmental protection.
- 749
750 B. Where applicable. Land classified MX7 must be in an area for which an approved and adopted Use
751 same language as above master or area plan recommends mixed use development at an appropriate
752 scale.
- 753
754 C. Location. The location of properties identified as MX7 are limited to those identified in the Seven
755 Islands Master Plan. Properties identified as MX7 are limited to Tracts A-G, and I, and Blocks 6400-
756 6408, Unit 76, Cape Coral Subdivision.
- 757
758
759 D. Residential. Any type of dwelling unit as well as any accessory use is allowed, so long as the location
760 and mix of types must be consistent with the Seven Islands Master Plan. A residential use may be
761 intermixed with a nonresidential use or uses in the same block, lot, or building.
- 762
763 E. Maximum residential dwelling units and non-residential square footage. The maximum number of
764 residential dwelling units is 995 dwelling units, and non-residential square footage is 110,000 square
765 feet, no less than 40,000 of which is a community center. The mix of residential dwelling units and
766 non-residential square footage shall be in accordance with the Seven Islands Master Plan, concept D1.

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- F. Compatibility and design standards. All uses must conform to the guidelines of the Seven Islands Master Plan. Uses must be compatible with existing or planned development on or adjacent to the site.
 - 1. Height and Orientation.
 - a. No building may be constructed to a height greater than 8 stories/115 feet, or as indicated in the Seven Islands Master Plan, Concept D1.
 - b. A building primarily used for retail or office use must be oriented toward the street on which it fronts. Off-street parking shall be kept to a minimum between the building and the front lot line.
 - 2. External access and internal circulation.
 - a. The internal vehicular circulation system must follow a pattern of intersecting streets that provide alternative routes.
 - b. Points of external access and alignments of internal roadways must facilitate use of public transit. This includes providing sufficient rights-of-way for bus pull-outs and bus shelters, as well as transit easements on private streets.
 - c. A comprehensive pedestrian and bicycle circulation system must link all uses, with the intent of minimizing walking distances and reducing dependence on the private automobile for internal travel and external access; and include:
 - i. Pedestrian sidewalks within the rights-of-way of Old Burnt Store Road and Tropicana Parkway;
 - ii. Pedestrian pathways and bikeways within open space areas, in addition to the sidewalks, when environmental factors do not prohibit the construction of paths and bikeways; and
 - iii. Safe and convenient access to retail and service uses, community and public facilities, and public transit, carpool, or vanpool services.
 - 3. Public facilities and utilities.
 - a. All utility lines must be placed underground.
 - b. Street lighting must be provided in accordance with the site plan.
 - G. Green area and public use space requirements. The minimum amount of green area is 30 percent of the gross area of the site. This green area must include the following:
 - 1. Within the nonresidential area, a plaza for public use;
 - 2. Within the residential area, a public park or common open space suitable for active or passive recreation within a reasonable walking distance of any area devoted to multi-family or single-family attached dwelling units; and

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- 814
815 3. Integration of active and passive spaces to encourage joint use by employees and residents,
816 subject to the following criteria:
817
818 a. Active open spaces include large, open play fields, local parks, and small recreation areas;
819
820 b. Passive open space areas and preserve natural features such as trees and wetlands; and
821
822 c. Active and passive open spaces will not be isolated from the Seven Islands development.
823
824 H. Surface parking. The form, arrangement, and landscaping of off-street surface parking for multi-family
825 dwellings and commercial uses are designed to avoid large expanses of paved area. Parking shall be
826 away from the street frontage and in the interior of the lot, unless the City Council makes a finding
827 that parking between the building and front lot line will serve the purposes of the district more
828 effectively than an interior location.
829
830 I. Drive-thru lanes prohibited. To encourage pedestrian-friendliness, no use may utilize drive-thru lanes
831 in the MX7 district.
832
833 J. Specific regulations for multi-family residences; single family attached 3 units or greater; commercial
834 parking lots and parking garages as a standalone use; movie theaters; craft brewery, distilleries, and
835 wineries; mobile food trucks; and home occupations are found in Article 5, Chapter 12 and 13.
836

Section 4.5.15. South Cape District

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838
839 The South Cape District special regulations are intended to act as a stimulus to development through
840 provisions that permit a flexible approach to infill development within the City's Community
841 Redevelopment Area. Developments providing affordable housing are incentivized by providing greater
842 residential density, and building height than that permitted by right.
843

844 Specific conditions for multi-family residential and vehicle fueling stations are in Article 5, Chapter 12.

845
846 A. Maximum Density and Height

847
848 **Table 4.5.15. Maximum Density and Height**

	Maximum Height (stories/feet, whichever is less)	Maximum Density (du/acre)
Baseline	6/95	50
Minimum 20% of Units Affordable	10/120	70

- 849
850 1. All buildings or portions of buildings within 200 feet of the R1 zoning district shall be limited to six
851 stories or 95 feet, whichever is less.
852
853 2. Maximum building height shall not apply to the following building components: elevator and stair
854 bulkheads; solar energy systems; shade devices associated with parking structures or recreational

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amenities; skylights or similar components associated with daylighting; and mechanical equipment, provided that such equipment is architecturally screened on all sides.

- B. Standards for site design. Sites shall be designed to incorporate safe and convenient vehicular use areas and pedestrian ways, with landscape, lighting, and signage treatments intended to result in a comprehensive design.

1. Streets. Streets in the South Cape zoning district are classified as follows:

a. Primary streets

- i. Cape Coral Parkway
- ii. Coronado Parkway
- iii. SE 47th Terrace

b. Secondary streets. All streets other than those included as a primary street within the boundaries of the SC district.

- i. Del Prado Boulevard
- ii. Miramar Street
- iii. Lafayette Street
- iv. SE 46th Lane, Street
- v. SE 10th Lane
- vi. Leonard Street

c. Local streets. All streets other than those included as a primary or secondary.

INSERT MAP!!!!

2. Building setbacks.

a. Front. The following front setbacks are established based upon the established street types:

- i. Primary: minimum, 8 feet; maximum 12 feet
- ii. Secondary: minimum 8 feet; maximum None

b. Side.

- i. If adjacent to an alley, a 5-foot setback is required; otherwise, 0.
- ii. If adjacent to single family property, a minimum ten-foot setback, is required inclusive of a five-foot landscaped strip.
- iii. If adjacent to existing ROW, see subsection (a) above.
- iv. If adjacent to a navigable waterway, fifteen feet.
- v. If adjacent to a public utility easement, a minimum 6-foot setback is required.

c. Rear.

- i. If adjacent to an alley, a 5-foot setback is required.
- ii. If adjacent to single family property, a minimum ten-foot setback, is required inclusive of a five-foot landscaped strip; otherwise 0.
- iii. If adjacent to existing ROW, see subsection (a) above.

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- 902 iv. If adjacent to a navigable waterway, fifteen feet
- 903
- 904 d. Variations in required setbacks may be approved by the DCD Director to accommodate
- 905 pedestrian amenities, such as public plazas, pedestrian entries, outdoor dining areas and
- 906 similar public use areas, or landscaping.
- 907
- 908 3. Street Frontage Standards:
- 909
- 910 a. Parking structures or buildings elevated over surface parking lots shall have an occupied
- 911 ground floor space for a minimum depth of 20 feet from the frontage lines.
- 912
- 913 b. Properties with a frontage along a primary street, residential 1st floors are permitted beyond
- 914 a depth of 50 feet from the building setback. Buildings shall have a principal pedestrian
- 915 entrance on a primary frontage line.
- 916
- 917 c. Properties with a frontage along a primary that abut an alley, vehicular egress shall be
- 918 provided from the alley rather than a frontage line.
- 919
- 920 d. No loading docks and service areas shall be on primary street frontage lines.
- 921
- 922 e. Outdoor storage areas are not permitted on primary street frontages.
- 923
- 924 C. Parking Requirements. Parking requirements for the South Cape district can be found in Article 6.
- 925
- 926 D. Affordable Housing Density Incentive. Density incentives are opportunities offered to property
- 927 owners and applicants to meet specific development goals while providing benefits to the
- 928 community at large. Developers who dedicate a minimum of 20% of the total units as affordable
- 929 will be eligible for increased density in accordance with Table 4.7.4.a Maximum Density and Height.
- 930
- 931 1. Location of Units. Affordable units must be provided on-site.
- 932
- 933 2. Maximum Number of Units. Developers shall not dedicate more than 50% of the total units as
- 934 affordable.
- 935
- 936 3. Criteria for affordable housing. The affordable housing development incentive shall be available
- 937 to a development only when an affordable housing incentive development agreement has been
- 938 entered into by the applicant and the City of Cape Coral and such agreement has been approved
- 939 by the City Attorney and the City of Cape Coral prior to execution. Amendments to such
- 940 agreement shall be executed in the same manner as the original agreement. The affordable
- 941 housing incentive development agreement shall include, at a minimum, the following
- 942 provisions:
- 943
- 944 a. Legal description of the land subject to the agreement and the names of its legal and
- 945 equitable owners;
- 946
- 947 b. Total number of residential dwelling units in the development;
- 948

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- 949 c. Minimum number of affordable housing units, categorized by level of household income,
950 type of unit (condominium or rental), and number of bedrooms, required in the
951 development;
- 952
- 953 d. Total number of affordable housing dwelling units permitted in the development;
- 954
- 955 e. Gross residential density of the development;
- 956
- 957 f. Amount of monthly rent for rental units, or the price and conditions under which a
958 condominium unit will be sold, for each affordable housing unit;
- 959
- 960 g. The price of affordable housing units offered for rent or sale shall be based on the number
961 of bedrooms in the unit and shall not exceed low income limits established annually by the
962 United States Department of Housing and Urban Development for the Metropolitan
963 Statistical Area which includes the Cape Coral downtown CRA;
- 964
- 965 h. No affordable housing unit in the development shall be rented or sold to a tenant whose
966 household income has not been verified as an income qualified family. Such verification
967 shall be the responsibility of the owner and shall be submitted to the City for approval.
- 968
- 969 i. No affordable housing unit that is to be sold, leased with option to purchase, or otherwise
970 conveyed by the development shall be sold, leased with option to purchase, or otherwise
971 conveyed to a buyer whose household income has not been verified and certified in
972 accordance with this subsection as low-income family. Such verification and certification
973 shall be the responsibility of the applicant and shall be submitted to the City for approval.
974 It is the intent of this subsection to keep housing affordable; therefore, any person who
975 buys an affordable housing unit must agree, in a lien instrument to be recorded with the
976 Clerk of the Circuit Court of Lee County, Florida, that if he or she sells the property (including
977 the land, the unit, or any combination thereof) within 15 years after his or her original
978 purchase at a sales price in excess of 5% per year of his original purchase price that he or
979 she will pay to the City of Cape Coral an amount equal to the sales price in excess of 5%
980 increase per year. The lien instrument may be subordinated to a qualifying first mortgage
981 at the option of the city. For example, a person originally buys a designated affordable
982 housing unit for \$100,000 and sells it after five years for \$150,000. A 5% increase per year
983 for five years will give a value of \$127,628. Deducting this amount from the sales price of
984 \$150,000 gives a difference of \$22,372. The seller would then owe the City of Cape Coral
985 \$22,372. Payment of this amount would release the first owner from the recorded lien
986 against the property. Such payment shall be maintained in a segregated fund, established
987 by the city solely for affordable housing purposes, and such money shall be used solely to
988 encourage, provide for, or promote affordable housing in the City of Cape Coral;
- 989
- 990 j. No affordable housing unit for which credit is awarded shall be occupied by the applicant,
991 any person related to or affiliated with the applicant, or a resident manager;
- 992
- 993 k. The applicant shall advertise, rent, sell, and maintain the affordable housing unit in a
994 nondiscriminatory manner and make available all relevant information to any person who
995 is interested in renting or purchasing such affordable housing unit. The applicant shall agree

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- 996 to be responsible for payment of any real estate commissions and fees. The affordable
997 housing units in the development shall be identified on all building plans submitted to the
998 city and described in the application for affordable housing development incentive;
999
- 1000 l. Except as required in this subsection, the applicant shall not disclose to persons, other than
1001 the potential tenant, buyer or lender of the particular affordable housing unit or units,
1002 which units in the development are designated as affordable housing units;
1003
- 1004 m. The square footage, construction and design of the affordable housing units shall be the
1005 same as market rate dwelling units in the development;
1006
- 1007 n. The affordable housing units shall be integrated with, and not segregated from, the market
1008 rate dwelling units in the development. The conditions contained in the affordable housing
1009 incentive development agreement shall constitute covenants, restrictions, and conditions
1010 which shall run with the land and shall be binding upon the property and every person
1011 having any interest therein at anytime and from time to time. The affordable housing
1012 incentive development agreement shall be recorded in the official records of Lee County,
1013 Florida, subsequent to the recording of the deed pursuant to which the applicant acquired
1014 fee simple title to the property;
1015
- 1016 o. In the case where a development will occur in more than one phase, the percentage of
1017 affordable housing units to which the applicant has committed for the total development
1018 shall be maintained in each phase and shall be constructed as part of each phase of the
1019 development on the property. For example, if the total development's affordable housing
1020 development incentive is based on the provision of 10% of the total dwelling units as
1021 affordable housing rental units for low income households with two bedrooms per unit,
1022 then each phase shall maintain that same percentage (10% in this case) cumulatively.
1023
- 1024 p. Each affordable housing unit shall be restricted to remain and be maintained as an
1025 affordable housing unit designated in accordance with the affordable housing incentive
1026 development agreement for at least 15 years from the issuance of a certificate of occupancy
1027 for such unit; and
1028
- 1029 q. The applicant and owner of the development shall provide on-site management to assure
1030 appropriate security, maintenance and appearance of the development and the dwelling
1031 units where these issues are a factor.
1032
- 1033 3. Certificate of Occupancy. A certificate of occupancy shall not be issued to any affordable unit
1034 until all affordable housing requirements applicable to that unit are satisfied. If, after the
1035 issuance of the first certificate of occupancy, the city determines any requirement in this
1036 subsection has not been met, then the city may revoke the certificate of occupancy and would
1037 subject the applicant or owner to any penalty imposed by law.
1038
- 1039 E. Specific regulations for multi-family residences; commercial parking lots and parking garages as a
1040 standalone use; vehicle fueling stations; craft brewery, distilleries, and wineries; mobile food trucks;
1041 wireless antennas; and home occupations are found in Article 5, Chapter ~~102~~ and ~~131~~.
1042

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CHAPTER 1 – GENERAL PROVISIONS, ZONING DISTRICTS ESTABLISHED, ZONING USE TABLES

- Section 4.1.** Purpose and Intent
- Section 4.2.** Establishment of Zoning Districts
- Section 4.3.** Zoning District Development Standards
- Section 4.4.** Uses by Zoning District

CHAPTER 2 – SPECIFIC REGULATIONS BY DISTRICT

- Section 4.5.1.** Single-Family Residential (R1)
- Section 4.5.2.** Residential Multi-Family Low (RML)
- Section 4.5.3.** Residential Multi-Family Medium (RMM)
- Section 4.5.4.** Residential Estate (RE)
- Section 4.5.5.** Agricultural (A)
- Section 4.5.6.** Commercial (C)
- Section 4.5.7.** Professional Office (P)
- Section 4.5.8.** Industrial (I)
- Section 4.5.9.** Institutional (INST)
- Section 4.5.10.** Preservation (PV)
- Section 4.5.11.** Commercial Corridor (CC)
- Section 4.5.12.** Neighborhood Commercial (NC)
- Section 4.5.13.** Mixed-Use Bimini District (MXB)
- Section 4.5.14.** Mixed-Use Seven Islands District (MX7)
- Section 4.5.15.** South Cape Downtown District (SC)

CHAPTER 1 – GENERAL PROVISIONS

Section 4.1. Purpose and Intent.

- A. The purpose of this article is to encourage and promote the safety, health, and general welfare of the citizens of Cape Coral, Florida by providing for:
 - 1. Efficiency and economy in the process of development;
 - 2. Appropriate and best use of land;
 - 3. Convenience of traffic and circulation of people and goods;
 - 4. Adequate public utilities and facilities;
 - 5. Promotion of the civic amenities of beauty and visual interest;
 - 6. Development in accord with the comprehensive plan by establishing zoning districts;
 - 7. Regulation of the location and use of buildings, structures, and land; and

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- 48 8. Regulation of:
49
50 a. Height, bulk, and access to light and air of buildings and structures;
51
52 b. The area of yards and other open spaces; and
53
54 c. The density or intensity of development on a given site.
55
56 B. To accomplish these objectives, the regulations and districts and accompanying zoning map have been
57 designed with reasonable consideration, among other things, to reflect the character of the districts
58 and their suitability for particular uses.
59

60 **Section 4.2. Establishment of Zoning Districts**
61

62 For regulating and restricting the use of land and the erection, construction, reconstruction, altering,
63 moving, or use of buildings and structures, the City of Cape Coral is divided into zoning districts. The City
64 zoning districts are classified as follows:
65

66 A. Residential Zoning Districts
67

- 68 1. Residential Single Family (R-1). This district is established to encourage and protect single-family
69 development and to permit other uses generally compatible with single-family residential uses.
70
71 2. Residential Multi-Family Low (RML). This district is to accommodate multi-family housing to
72 meet the needs of a diverse community, while ensuring that there is a transition to single-family
73 neighborhoods which protects the integrity of those neighborhoods. The RML district acts as a
74 transition zone from lower density residential to higher density residential or non-residential uses
75 or zoning districts. The RML zoning district should only be established where City water and sewer
76 services are available.
77
78 3. Residential Multi-Family Medium (RMM). This zoning district is to accommodate multi-family
79 housing at a higher density than RML to meet the needs of a diverse community. The RMM
80 district also acts as a transition zone from lower density residential areas to non-residential land
81 uses or zoning districts.
82
83 4. Residential Estate (RE). This district is established to provide areas for single-family dwellings
84 typically on parcels of 40,000 square feet or more in areas of the city that are rural in character.
85 The RE district permits the keeping of some domesticated livestock for use by the occupants.
86
87 5. Agriculture (A). This district is to accommodate agricultural activities and operations which may
88 include crop cultivation; the breeding, raising, or keeping of livestock or fur bearing animals; dairy
89 farming; apiculture; and to allow all accessory uses and structures customarily incidental to those
90 activities.
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B. Non-Residential Zoning Districts

1. Commercial (C). This district is designed to encourage and facilitate commercial activities intended to serve a relatively large trade area, appropriate commercial locations on major thoroughfares in developed areas, and is intended to meet the needs of motorists and other consumers through the provision of automobile-oriented commercial activities to meet the needs of several types and varieties of general commercial activities.
2. Professional Office (P). This district is designed to encourage the compatible development of major professional and related office complexes in areas which are suitable for such activities. The P District may serve as a transition between commercial corridors and nearby residential uses.
3. Industrial (I). This district is to accommodate manufacturing, fabrication, warehousing, and other related activities that typically utilize large work forces, generate semi-tractor trailer traffic, and may produce external impacts such as noxious smells, smoke, or noise.
4. Institutional (INST). This district is to allow for development of nonprofit or quasi-public uses such as religious institutions, libraries, public or private schools, hospitals, or government owned or operated structures. Many of these uses provide meeting places for the citizens of Cape Coral and valuable civic engagement opportunities.
5. Preservation (PV). This district is to identify environmental resources or natural features as areas intended to remain in a predominately natural or undeveloped state to provide resource protection and opportunities for passive recreation and environmental education for present and future generations.

C. Mixed Use Zoning Districts

1. Commercial Corridor (CC). This district is established to implement the recommendations of the Pine Island Road Master Plan and to promote such uses as retail, office, limited warehouse and light manufacturing, multi-family residential and large-scale commercial retail uses.
2. Neighborhood Commercial (NC). This district is intended to create a variety of dynamic walkable, mixed-use environments; provide a range and mix of commercial and housing choices near each other; and to create quality usable public spaces. The NC District utilizes form-based design standards and provides development options based on parcel size.
3. Mixed Use Seven Islands (MX7). This district is intended to implement master plan recommendations for the Seven Islands Area consistent with the Seven Islands Sub District. A further objective is to foster a sense of place and create a destination environment in northwestern Cape Coral. To achieve these objectives, the MX7 district allows a more flexible approach to comprehensive design and coordinated development of a multi-use neighborhood than is possible under other zoning classifications.

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141 4. Mixed Use Bimini (MXB). This district is to promote redevelopment and enhancement of the
142 Bimini Basin area of Cape Coral to create a destination for residents and visitors, consistent with
143 the Downtown Mixed Future Land Use Classification and the Bimini Basin Revitalization and
144 Implementation Plan. This district encourages mixed-use development. Existing commercial and
145 professional buildings will be supplemented with entertainment activities and a wide diversity of
146 housing types to create a vibrant work, live, shop, and play district that serves the entire city and
147 region.

148
149 5. This district is intended to implement master plan recommendations for the Bimini Basin Area. A
150 further objective is to foster a sense of place and create a destination environment in
151 southeastern Cape Coral. To achieve these objectives, the MXB district allows a more flexible
152 approach to comprehensive design and coordinated development of a multi-use neighborhood
153 than is possible under other zoning classifications.

154
155 6. South Cape (SC). This district is to promote redevelopment and enhancement of the traditional
156 commercial center of Cape Coral into a more compact and walkable form growth and to create a
157 destination for residents and visitors. This district encourages mixed-use development. Existing
158 commercial and professional buildings will be supplemented with entertainment activities and a
159 wide diversity of housing types to create a vibrant work, live, shop, and play district that serves
160 the entire city and region.

161
162 It is intended that the South Cape regulations act as a stimulus to development through provisions
163 that permit a flexible approach to infill development on various lot sizes, as well as special
164 provisions related to particular locations within the district. Therefore, many of the provisions
165 contained herein, including uses and dimensional regulations, are regulated by lot size, or the
166 extent of roadway frontage or a combination thereof.

167
168 7. Planned Unit Development (PUD). This district is designed for development as a cohesive unit,
169 where uses and innovations in design and layout of the development provide public benefits when
170 compared to standard zoning or uniform lot and block subdivision patterns and design features.

171
172 **Section 4.3. Zoning District Development Dimensional Standards**

173
174 The purpose of this section is to identify the bulk, area, and dimensional standards for construction in
175 each zoning district.

176
177 **Table 4.3.1. Zoning District Dimensional Standards**

178

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179
180

ZONE DISTRICT DIMENSIONS									
ZONE DISTRICT	Lot and Structure		Minimum Setbacks (feet)						Maximum Height (feet)
	Minimum Lot Area (Square ft.)	Maximum Impervious Surfaces	Front	Front, Cul-de-Sac	Side	Rear	Double Frontage	Corner Lot Side	
RESIDENTIAL									
R-1	10,000 ¹	60 %	25	18	7.5	20/10 ²	25	10	38
RML	10,000	60 %	25	18	7.5	20/10 ²	25	10	38
			Setbacks for duplexes						
			36/30 ³	N/A	7.5	20/10 ²	25	10	38
RMM	43,560	None	25	18	6	26	25	10	50
RE	40,000	None	50	36	35	35	50	25	38
A	None ⁴	None	50	36	35	35	50	25	38
¹ See Section 5.11.6.K (Micro cottage standards) ² Primary structure/Pool cage ³ Front setback based on structure design per Section 5.10.3 ⁴ Non-residential uses in the A zoning district require 4 acres									
NON-RESIDENTIAL									
C	None	1	6	None	0 or 6	10	6	10	None
CC	None	1	15	None	0 or 6	15	15	10	None
	MF use 4 Acres								
P	None	1	6	None	10	10	6	10	None
I	None	1	20	None	0 or 6	10	20	10	None
INST	None	1	25	None	15	25	25	10	60
PV	None	None	50	None	50	50	50	10	38

181

Section 4.3.2 Setbacks for Residential-Zoned Sites Abutting Platted Waterways.

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183

For irregularly shaped residential-zoned sites abutting platted waterways, the front, side, and rear setbacks may be assigned by the Director based on one or more of the following factors:

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186

- A. The setbacks promote reasonable development of the site;
- B. The setbacks are generally consistent with the front, side, and rear setbacks of adjacent sites; or
- C. The setbacks do not constitute a special privilege with respect to the limitations placed on other properties in the area.

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Section 4.3.3 Projections and Encroachments into Setbacks

194

195

Encroachments into required setbacks. Every part of the required setbacks on a parcel shall be open and unobstructed from 30 inches above the ground, as measured from the average elevation of the crown of

196

197

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198 road along the property frontage, except as provided below or as shown in Table 4.3.2, below.

199
200 A. Structures less than 30 inches in height are not considered encroachments into minimum required
201 setbacks.

202
203 B. Bermed earth, plant materials, sidewalks, and driveways are not considered encroachments.

204
205 C. Encroachments into required setbacks:

206
207 1. Cornices, overhangs, decorative awnings with no ground support installed over windows and at
208 entrances, eaves and gutters, balconies, and means of egress may project a maximum of three
209 feet into required setbacks.

210
211 2. Awnings requiring pole supports to be placed in a setback area, or those without pole supports
212 which encroach more than 3 feet into required setbacks, may be approved, in districts other than
213 RE or R1, at the discretion of the Director of Community Development. Such awnings must
214 function as decorative architectural elements as opposed to garage, carport, or other similar
215 storage facilities.

216
217 3. All existing air conditioning, pool equipment, and generators may be maintained and replaced
218 provided the new equipment does not encroach more than three feet into any required setback.
219 All newly installed or replacement air conditioners, generators, and pool equipment must comply
220 with all setback requirements and shall not be placed in any easement.

221
222 4. Permitted encroachments into required setbacks are not allowed to encroach into utility
223 easements (See Article 5, Section 5.1.6).

224
225 **Table 4.3.3 Permitted Setback Encroachments**

226

Projection or Feature	Encroachment (measured from primary structure envelope)			Max Height
	Front Yard	Side Yard	Rear Yard	
Architectural features	2 ft.	2 ft.	2 ft.	N/A
Awnings and canopies	3 ft.	3 ft.	3 ft.	N/A
Balconies	3 ft.	3 ft.	3 ft.	N/A
Chimneys	N/A	2 ft.	2 ft.	per Building Code
Eaves, gutters, and overhangs	3 ft.	3 ft.	3 ft.	N/A
Porches	5 ft.	3 ft.	3 ft.	N/A
Solar Photovoltaic (PV) Arrays, attached to primary structure	N/A	N/A	N/A	3 ft. above a peaked roof, 10 ft. above a flat roof

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Mechanical equipment: AC, generator, pool equipment	N/A	5 ft.	5 ft.	N/A
Stairways	5 ft.	3 ft.	5 ft.	N/A
Ornamental Walls	5 ft.	1.5	5 ft.	30 inches

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Section 4.4. Uses by Zoning District – Use Hierarchy.

A. Classification of Uses Listed in Table 4.4.

1. Permitted Uses. Uses that are allowed by right. These uses are shown in the table with a “P”.
2. Permitted Uses with Specific Regulations. Uses that are permitted with specific regulations that apply in all zoning districts where those uses are permitted. The specific regulations are provided in Article 5, Chapter 10. These uses are shown in the table with a “P*”.
3. Conditional Uses. Uses which are generally appropriate in a Zoning district. Conditional uses are permitted uses which, because of potential impacts, may require reasonable special limitations or conditions of approval peculiar to the use for the protection of the public health, safety, or welfare and the integrity of the Comprehensive Plan. The specific requirements for conditional uses are provided in Article 5, Chapter 11. These uses are shown in the table with a “CU”.
4. Special Exception Uses. Those uses or structures that may not be appropriate generally or without restriction throughout a district but which, if controlled as to, area, location, or their relationship and potential impacts to nearby residences or neighborhoods, would be acceptable. These uses are shown in the table with an “SE”.
5. Prohibited Uses. Any use not specifically listed as a permitted use, a permitted use with specific regulations, a conditional use, a special exception use, a permitted accessory use, or permitted through a similar use determination shall be considered expressly prohibited.

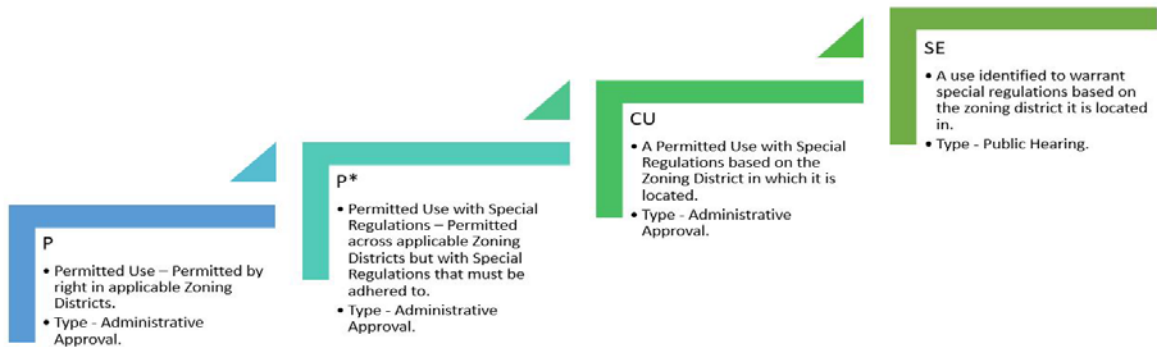
B. Uses not listed in Table 4.4.

1. Accessory Uses. Accessory uses are customarily associated with and are incidental and subordinate to such principal uses. An accessory use shall be subject to the same regulations that apply to the principal use in each district, except as otherwise provided.
2. Temporary Uses. Uses that are deemed temporary in nature regulated by Article 5, Chapter 9 or the City Code of Ordinances, shall not be subject to the standards and requirements as set forth in this article, except that the City may impose conditions which may include limiting the period of approval, imposing hours of operations, location of any aspect of the temporary use, operational standards to minimize impacts on surrounding properties, and any other conditions deemed necessary to minimize detrimental impacts to the welfare of the community. These uses are listed in Article 5, Chapter 9 or the City Code of Ordinances.
3. Similar Use Determinations. See Article 3 Section 3.3.3.

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268

USE HIERARCHY



269
270

271 **Table 4.4 Use Table**

272 The following table of permitted uses, when read together with the definitions set forth in Article 11 shall
273 be used to determine the zoning district in which a given use may be established.

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Use Table

P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted

	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R 1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC		
																PRI	SEC	LOC
Residential	Single-family	P	P		P	P												
	Duplex		P*															
	Multi-family		CU	CU							CU	CU	CU	CU	CU	CU	CU	CU
	Single-family Attached - 3 or more		CU	P							CU	CU	CU	CU				
	Micro-Cottage	P*																
	Assisted Living Facility		SE	P			P	P			P	P				P		
	Family Day Care Home –5 or fewer	P	P	P	P	P												
	Community Residential Home – up to 6 res	P	P	P	P	P												
	Community Residential Home – 7 to 14 residents		P	P														
	Model Home	P*	P*		P*													
	Home Business	CU	CU		CU	P												
	Home Occupation	P*	P*	P*	P*	P*							P*	P*	P*	P*	P*	P*
Public and Institutional Uses	Animal Shelter					P		SE	SE									
	Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Educational Facilities – Primary and Secondary	P	P	P	P	P			P			P				P		
	Educational Facilities – Vocational Schools			SE				P	P	P		P				P		
	Educational Facilities – Colleges and universities								P	P								
	Essential Service Facilities - Major	SE	SE	SE	SE	SE	SE	P	P	P	SE	P	SE	SE	SE	SE	SE	SE
	Essential Service Facilities - Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Government Office Facilities					P	P	P		P		P	P	P	P	P	P	P
	Hospital							P		P		P						
	Public Parks and Recreational Facilities	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P
	Public Safety – Police/Fire	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

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P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted																			
Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts							
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC			
																PRI	SEC	LOC	
Recreation and Entertainment	Sexually Oriented Business																		
	Commercial Recreation, Indoor										P						P	P	P
	Commercial Recreation, Outdoor					P					P								
	Golf Course w/ Ancillary activities	P	P	P	P	P													
	Golf, Driving Range					P													
	Golf, Miniature					P					P						P		P
	Marina										P					P			
	Shooting Range/Archery - Indoor										P								
	Shooting Range/Archery - Outdoor					SE													287
Vehicle-related Commercial	Boat Sales										P	P						CU	CU
	Car Wash										P								
	Commercial Parking lot or Garage										P				P	P	P	P	
	Heavy Vehicle, Sales & Rental											P							
	Light Vehicle, Rental										P							P	P
	Light Vehicle, Sales														P*				
	Vehicle Repair, Major														SE				
	Vehicle Repair, Minor											CU	P						
	Vehicle Fueling Station											CU	P			P	CU		CU
	Vehicle Storage																		
	Accessory Parking Lot																		

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Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts							
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC			
																PRI	SEC	LOC	
Food and Beverage	Bar							P					P	P	P	P	P	P	P
	Brewpub							P					P	P	P	CU	P	P	P
	Craft Brewery, Distillery, Winery							P*					P*	P*	P*	P*	P*	P*	P*
	Mobile Food Vendor							P*	P*	P*	P*		P*	P*	P*	P*	P*	P*	P*
	Restaurant, no drive-thru							SE	P				P	P	P	P	P	P	P
	Restaurant, drive-thru								P	P			P						P
Lodging	Bed and Breakfast	SE	SE	SE	SE	SE													
	Campground					P													
	Hotel/Motel							P								P	P	P	
	Resort	P*	P*	P*				P											
	RV Resort					P*													

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Use Table

P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted

Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC		
																PRI	SEC	LOC
Commercial and Professional Services	Animal Kennel, Indoor				P	P		P				P			P		P	P
	Animal Kennel, Outdoor					P												
	Day Care Facilities – Adult or Child		P	P		P	P		P		P	P		P		P	P	P
	Banks and Finance - no drive thru						P	P				P	P			P	P	P
	Banks and Finance w/ drive thru						P	P				P						P
	Building and Construction w/o outdoor storage/display						P	P				P	P		P	P	P	P
	Building and Construction w/ outdoor storage/display							P*				P*						
	Self-Storage Facilities							P*	P*			P*						
	Personal Services						P	P				P	P	P	P	P	P	P
	Pharmacy – no drive through						P	P				P	P	P	P	P	P	P
	Pharmacy with drive through							P				P						P
	Professional Offices						P	P				P	P	P	P	P	P	P
	Professional Services						P	P				P	P				P	P
	Radio and TV Station								P	P		P	P				P	P
	Repair Shops							P	P			P	P				P	P
	Retail							P				P	P	P	P	P	P	P
Retail >50,000 sq. ft. per tenant							P				P	SE			SE	SE	SE	

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Use Table

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Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts							
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MX7	MXB	SC			
																PRI	SEC	LOC	
Agriculture	Animal Boarding					P													
	Community Garden					P				P									
	Farms – Produce & Livestock					P													
	Greenhouse / Nursery					P						P							
	Outdoor storage – Agricultural					P													
	Stable				P	P													
	Roadside Food and Vegetable Stand					P*													
Industrial	Dry Cleaning/Laundry Plant								P										
	Extraction w/ancillary use					SE			P										
	Industrial, Heavy								P										
	Industrial, Light								P			SE							
	Laboratory – medical, research, testing							SE	P	SE		SE							
	Energy Resource Generation					SE				P									
	Storage, Outdoor Screened					P			P	SE		CU							
	Storage, Outdoor					P			P										
	Solid Waste Transfer					SE					SE								

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Use Table																		
P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted																		
Use Category	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R1	RML	RMM	RE	A	P1	C	I	INST	PV	CC	NC	MXB	MX7	SC		
																PRI	SEC	LOC
Places of Assembly	Amphitheatres/ Arenas					SE				SE						SE	SE	SE
	Banquet Hall						P				P	P			P	P	P	
	Clubs, Private and Fraternal						P				P	P				P	P	
	Community Centers								P				P	P	P	P	P	
	Cultural and Civic Facilities						P		P	SE			P		P	P		
	Movie Theaters						P				P	P	P	P	P	P	P	
	Religious Institution	CU	CU	CU	CU	P	P	P	P			P	P			P	P	P
Other	Cemetery / Mausoleum					P			P									
	Crematory							P			P							
	Funeral Homes						P	P			P	P				P	P	
	Wireless Communication Facilities					p*	p*	p*	p*		p*	p*				p*	p*	
	Solar Arrays					p*			p*	p*								
	Mixed-use Building										P	P	P	P	P	P	P	

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CHAPTER 2. SPECIFIC REGULATIONS BY DISTRICT

This chapter establishes specific regulations for uses, activities, or structures within a zoning district.

Section 4.5.1. Single-Family Residential (R1)

Specific regulations for micro-cottages, model homes, and home occupations are established in Article 5, Chapter 10.

Specific conditions for home-based businesses and religious institutions are established in Article 5, Chapter 11.

Section 4.5.2. Residential Multi-Family Low (RML)

Specific regulations for duplexes, model homes, and home occupations are established in Article 5, Chapter 10.

Specific conditions for multi-family residences, single-family attached, home-based businesses, and religious institutions are established in Article 5, Chapter 11.

Section 4.5.3. Residential Multi-Family Medium (RMM)

Specific regulations for home occupations are established in Article 5, Chapter 10.

Specific conditions for day care facilities and religious institutions are established in Article 5, Chapter 11.

Section 4.5.4. Residential Estate (RE)

A. Specific regulations for model homes and home occupations are established in Article 5, Chapter 10.

Specific conditions for home-based businesses, and religious institutions are established in Article 5, Chapter 11.

B. Non-domestic animals.

1. Non-domestic animals regulated in this section are considered to be a pet or for household consumption and shall not be used for any commercial purposes.
2. Non-domestic animals are only allowed in the Residential Estate zoning district for sites with a Low Density Residential II Future Land Use Map classification pursuant to the regulations below and the requirements of the City Code of Ordinances.

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- 390 3. Horses. The keeping of horses, including foals and yearlings, is permitted in the Residential
391 Estate zoning district regardless of the Future Land Use Map classification. Any roofed structure
392 for shelter of such animals shall be setback at least 100 feet from any property line.
393
- 394 4. Cattle, mules, goats, sheep, swine, and poultry. The keeping, raising, and breeding of non-
395 domestic animals, including cattle, mules, goats, sheep, swine, and poultry may be permitted
396 in the Residential Estate as follows:
397
- 398 a. Lot size. The minimum lot area required for the keeping, raising, and breeding of non-
399 domestic animals, as identified in this section, is 100,000 square feet.
400
- 401 b. Animals within this subsection may not be kept or allowed to run within 100 feet of any
402 zoning district other than the Residential Estate (RE) within the Low Density Residential II
403 Future Land Use Map classification and Agricultural zoning districts.
404
- 405 c. Buildings or other roofed structures or enclosures for the keeping of animals within this
406 subsection must be set back a minimum of 150 feet from any zoning district other than
407 Residential Estate (RE) or Agricultural (A) zoning districts, under separate ownership.
408
- 409 d. The keeping and raising of non-domestic animals within this subsection is permitted in the
410 Residential Estate zoning district for personal use only, or for youth or farm-education
411 programs such as 4-H or The National FFA Organization.
412
- 413 C. Accessory structures. Accessory structures in the Residential Estate zoning district shall not have a
414 maximum size.
415

Section 4.5.5. Agricultural (A)

- 416
417
- 418 A. Specific regulations for, RV resorts, wireless communication facilities, and home occupations are
419 established in Article 5, Chapter 10.
420
- 421 B. Carports, garages or other buildings not used as a dwelling and customarily incidental to the
422 principal permitted use of the premises.
423
- 424 C. A minimum of five acres is required for all non-residential uses.
425

Section 4.5.6. Commercial (C)

- 426
427
- 428 Specific regulations for: commercial parking lots and parking garages as a standalone use; craft brewery,
429 distillery, and wineries; building and construction with outdoor display or storage; mobile food vendors;
430 and wireless communication facilities are found in Article 5, Chapter 10.
431
- 432 Specific conditions for vehicle repair, minor, vehicle fueling stations, and self-storage facilities, are
433 established in Article 5, Chapter 11.
434

435
436

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437 **Section 4.5.7. Professional Office (P)**

438
439 Specific regulations for mobile food vendors and wireless communication facilities are found in Article 5,
440 Chapter 10.

441
442 **Section 4.5.8. Industrial (I)**

443
444 Specific regulations for mobile food vendors and wireless communication facilities are found in Article 5,
445 Chapter 10.

446
447 **Section 4.5.9. Institutional (INST)**

- 448
449 A. Specific regulations for mobile food vendors and wireless communication facilities are found in Article
450 5, Chapter 11.
451
452 B. Outdoor storage that is accessory to a principal use shall be screened from view from all rights-of-way
453 by an opaque fence or wall.

454
455 **Section 4.5.10. Preservation (PV)**

456
457 Reserved.

458
459 **Section 4.5.11. Commercial Corridor (CC)**

460
461 **Table 4.5.11.**

462

Commercial Corridor Development Parameters		
	Development Area	
	0 – 3.99 acres	4 acres or greater
Free-standing Commercial Development Area Maximum FAR	100% 1.0	
Free-standing Residential Minimum Density Maximum Density	Not allowed Not allowed	12 du/acre 25 du/acre
Mixed-Use Minimum Density Maximum Density Maximum FAR	3 du/acre 12 du/acre 1.0	12 du/acre 25 du/acre 2.0
Minimum Front Setback	20 ft.	20 ft.
Minimum Side Setback	6 ft.	6 ft.
Min. Rear Setback	10 ft.	10 ft.

463

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464 A. Specific regulations for: craft brewery, distilleries, and wineries; mobile food vendors; building and
465 construction with outdoor display or storage; and wireless antennas are found in Article 5, Chapter
466 10.

467
468 B. Specific conditions for multi-family residential, single-family attached with 3 units or greater, outdoor
469 screened storage, and self-storage facilities are in Article 5, Chapter 11.

470
471 **Section 4.5.12. Neighborhood Commercial (NC)**

472
473 A. Specific regulations for multi-family residences; single family attached 3 units or greater; commercial
474 parking lots and parking garages as a standalone use; vehicle fueling stations; craft brewery,
475 distilleries, and wineries; mobile food trucks; wireless antennas; and home occupations are found in
476 Article 5, Chapters 10 and 11.

477
478 B. Mix of uses. Development in the NC district is encouraged to have a mix of residential and non-
479 residential uses, however, a mix of uses is not required.

480
481 C. Use areas. All land areas within developments in the NC District shall be categorized as one of the
482 three following use areas:

483
484 1. Free-standing non-residential. Free-standing non-residential areas include the footprint and
485 land areas associated with buildings that contain no residential units.

486
487 2. Free-standing residential. Free-standing residential areas include the footprint and land areas
488 associated with buildings that contain residential units and buildings that contain non-
489 residential floor area usage that is less than 30% of the building's floor area. In calculating the
490 floor area of the building, the total floor area of the building is the floor area of the building
491 remaining after the area of any structured parking is excluded. Also, any pre-existing single-
492 family residences do not necessarily constitute free-standing residential development, unless
493 such residences otherwise meet the criteria for such development.

494
495 3. Mixed-Use. Mixed-use areas include the footprint and land areas associated with compound
496 use buildings that shall mean buildings with at least 30% of their floor areas allocated to non-
497 residential uses.

498
499 D. Density, intensity, and use area allocations.

500
501 1. The allowable densities, intensities, and use area allocations within the NC District may vary
502 with the land area allocated to each use in a development project.

503
504 2. A development can consist of one or more properties that are the subject of a single application
505 for development.

506
507 3. If an application includes properties that are not contiguous, the application must demonstrate
508 that the properties function as a unified development.

509

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510 4. The land area that may be allocated to any of the three use area allocations varies with the size
511 of the development project, with generally increasing flexibility as a function of the total land
512 area of the development. Densities and intensities associated with any of the three use area
513 categories apply only to the land area of the project that is allocated to that specific use. In
514 determining the land area within any of the three use area allocations, the area of any common
515 areas for surface water management, parking, landscaping, and circulation shall be apportioned
516 among the three use area allocations in the same proportion as the non-common areas relate
517 to the area of the development, excluding common areas.
518

519 **Table 4.5.12.**

Neighborhood Commercial Development Parameters			
	Land Area of Development Project		
	1 acre or less	1 acre – 19.99 acres	20 acres or greater
Free-standing Commercial Development Area	0-100%	15%-100%	20%-75%
Maximum FAR	1.0	1.0	1.0
Free-standing Residential Development Area	N/A	15%-85%	25%-80%
Minimum Density	N/A	12 d.u./acre	12 d.u./acre
Maximum Density	N/A	25 d.u./acre	25 d.u./acre
Mixed-Use Development Area	0-100%	0-100%	0-100%
Minimum Density	3 d.u./acre	12 d.u./acre	12 d.u./acre
Maximum Density	12 du/acre	25 d.u./acre	25 d.u./acre
Maximum FAR	1.0	2.0	2.0
Build-to / Front Setback	6 ft. – 10ft.	10 ft.	10 ft.
Minimum Side Setback	0 or 6	0 or 6	0 or 6
Min. Rear Setback	6	6	6

521

522 E. Limitations on density and intensity within the NC District. In the Urban Services Reserve Area,
523 residential uses are restricted to 4.4 dwelling units per acre and non-residential development is
524 limited to uses that do not generate an estimated flow of more than 880 gallons of sewage per acre
525 per day.
526

527 F. Use area allocations. All developments in the NC District shall be categorized as one of the three
528 following use areas:
529

- 530 1. Free-standing non-residential. Free-standing non-residential areas contain no residential units.
531
- 532 2. Free-standing residential. Free-standing residential areas include the footprint and land areas
533 associated with buildings that contain residential units and buildings that contain non-
534 residential floor area usage that is less than 50% of the building's ground floor area.

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- 535
536 3. Pre-existing single-family residences do not constitute free-standing residential development.
537
538 4. Mixed-Use. Mixed-use areas include the footprint and land areas associated with mixed-use
539 buildings with at least 50% of the ground floor areas allocated to non-residential uses.
540
541 G. Use Area Calculations
542
543 1. The uses of a building (residential, non-residential, mixed-use) shall be calculated by the floor
544 area occupied by a use excluding any structured parking areas.
545
546 2. Developments that incorporate non-residential and residential uses shall clearly indicate the
547 land areas (square footage, percentage of development site, and locations) to be used for non-
548 residential, residential, and mixed-use, as well as the uses proposed within each of the
549 designated areas.
550
551 3. In determining land area within any of the three use area allocations common areas, including
552 surface water management, parking, landscaping, and circulation shall be distributed among
553 the three use area allocations in the same proportion as the non-common areas.
554
555 H. Development Standards
556
557 1. Drive-thru facilities are prohibited.
558
559 2. Loading Docks and Service Areas.
560
561 I. All loading docks and building service areas containing air handling equipment, generators, meters,
562 etc., shall be screened by a masonry wall from a pedestrian-level view from any adjacent residential
563 future land use category, public sidewalk, or public street, excluding alleys.
564
565 J. Such walls shall be designed to appear as an architectural extension of the principal building and
566 incorporate architectural trim and features consistent with the adjacent facade.
567
568 K. Walls required for screening loading docks or building service areas shall not exceed the height
569 limitations provided in Article 5 of this code unless approved by the DCD Director.
570
571 L. On sites greater than one acre the following shall apply:
572
573 1. The first story of the building frontage shall be at least 75% of the parcel width as measured
574 along the front property line. For adjoining parcels that are being developed simultaneously as
575 one site with one or more buildings, this percentage applies to the combination of lots and
576 building frontages.
577
578 2. At least 40% of the building frontage shall be built at the minimum front setback line.
579
580 3. Off-street parking spaces shall not be within the front yard.
581

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582 4. Outdoor display of cars, boats, motorcycles, and vehicles is prohibited.

583
584 5. Deviations from the requirements of this section may be approved pursuant to Article 3 of this
585 code.

586
587 **Section 4.5.13. Mixed-Use Bimini (MXB)**

588
589 A. Mix of Uses Allowed. Any type of dwelling unit as well as any accessory use is allowed, so long as the
590 location and mix of types is consistent with the Bimini Basin Revitalization and Implementation Plans.
591 A residential use may be intermixed with a nonresidential use or uses in the same block, lot, or
592 building.

593
594 B. Maximum Height and Density.

595
596 1. The maximum shall be 50 dwelling units per acre.

597
598 2. The maximum height shall be 8 stories or 115 feet.

599
600 3. Developments that include at least 20% of the total units as affordable or workforce housing shall
601 permit a maximum density of 75 dwelling units an acre and a maximum height of 12 stories or
602 150 feet.

603
604 C. Compatibility and design standards. All uses must conform to the guidelines of the Bimini Basin
605 Revitalization and Implementation Plan. Uses must be compatible with existing or planned
606 development on or adjacent to the site.

607
608 1. Orientation, and Design.

609
610 a. A building facing public streets, excluding alleys, must provide a public entrance.

611
612 b. The first story of all non-civic buildings within the MXB shall provide shade via awnings,
613 canopies, or similar features for no less than 50% of the building length.

614
615 c. Office uses may only comprise 20% of the ground floor public street facing building façade.

616
617 d. For properties with frontages on more than one street, ground floor storefront windows shall
618 be located on a minimum of two public streets.

619
620 e. No less than 30% of all upper floor street facing building facades shall have windows.

621
622 f. With the exception for bathroom and kitchen mirrors, windows shall be transparent; no
623 mirror-type or dark-tinted is permitted for windows and doors in the MXB district.

624
625 g. Window signs are prohibited.

626
627 h. No wall-in or window-in air conditioning units are permitted.

628

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- 629
630 i. All HVAC, mechanical and electrical equipment shall not be visible from the street.
631
632 2. External access and internal circulation.
633
634 a. Drive-thru facilities are prohibited.
635
636 b. The internal vehicular circulation system must follow a pattern of intersecting streets that
637 provide alternative routes.
638
639 c. Points of external access and alignments of internal roadways must facilitate use of public
640 transit. This includes dedication of rights-of-way sufficient for bus pull-outs and bus shelters,
641 as well as transit easements on private streets.
642
643 d. A comprehensive pedestrian and bicycle circulation system must link all uses, with the intent
644 of minimizing walking distances and reducing dependence on the private automobile for
645 internal travel and external access; and include:
646
647 i. Pedestrian sidewalks within the rights-of-way of Cape Coral Parkway;
648 ii. Pedestrian pathways and bikeways within open space areas, in addition to the sidewalks;
649 and
650 iii. Safe and convenient access to retail and service uses, community and public facilities, and
651 public transit, carpool, or vanpool services.
652
653 3. Public facilities and utilities.
654
655 a. All utility lines must be placed underground.
656
657 b. Street lighting must be provided.
658
659 D. Green area and public use space requirements. The minimum amount of green area is 10 percent of
660 the gross area of the site. This green area must include the following:
661
662 1. Within the nonresidential area, a plaza for public use;
663
664 2. Within the residential area, a public park or common open space suitable for active or passive
665 recreation within a reasonable walking distance of any area devoted to multi-family or single-
666 family attached dwelling units; and
667
668 3. Street trees are required on public streets. Street trees shall be placed at a maximum of 30' on
669 center.
670
671 E. Outdoor sound amplification. In addition to the requirements found in Section 5.9.3, the following
672 regulations shall apply:
673
674 1. Sound amplification devices shall be oriented toward the use hosting the device, and shall not
675 be oriented toward surrounding residential uses.

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2. A proposal to establish an outdoor venue in the MXB district is required to submit a site plan amendment. All proposed outdoor venues associated with a new business shall submit a site plan application to the City which shall be subject to review and approval by the HEX. The site plan amendment shall be reviewed in accordance with the following:
 - a. For waterfront properties, no site plan amendment shall be approved unless the information provided by the applicant indicates that the outdoor sound amplification equipment will be oriented and located in a way that sound will not be projected directly towards the water, unless, the information provided shows that sound barriers or other means of noise attenuation shall be placed so as to substantially reduce the amplified sound that would otherwise impact adjacent properties or adjacent street right-of-way.
 - b. For all other properties, no outdoor amplified sound plans shall be approved unless the information provided by the applicant indicates that the outdoor sound amplification equipment will be oriented toward the interior of the property, unless the information provided shows that sound barriers or other means of noise attenuation shall be placed to substantially reduce the amplified sound that would otherwise impact adjacent properties or adjacent street right-of-way.
 - i. The outdoor amplified sound equipment and any sound barriers or other attenuation devices approved as part of the plan shall comply with any applicable requirements of the Florida Building Code, including any local amendments.
 - ii. No amplified sound equipment shall be operated in a manner which violates Cape Coral Code of Ordinances Chapter 23, Protected species; and
 - iii. Amplified sound equipment shall be placed no higher than six feet above grade.
- F. Specific regulations for multi-family residences; single family attached 3 units or greater; commercial parking lots and parking garages as a standalone use; bars; craft brewery, distilleries, and wineries; mobile food trucks; arenas and amphitheatres; and home occupations are found in Article 5, Chapter 12 and 13.

Section 4.5.14. Mixed-Use Seven Islands District (MX7)

- A. Intent and purpose. It is the intent of this district to implement City Council adopted plans to create a comprehensively planned, mixed-use development for the Seven Islands area. The specific purposes of the Mixed-Use Seven Islands District are:
 1. To provide for an integrated mix of uses that includes:
 - a. A diversity of housing options;
 - b. A diversity of commercial, office, research and development, and institutional uses providing employment as well as goods and services; and
 - c. Adequate open space for active and passive recreation that encourages public interaction.

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- 723 2. To provide for access via a circulation system and pattern that encourages travel on foot and by
724 bicycle within the neighborhood and the use of public transit for external travel, augmented by
725 locations for automobile parking that do not inhibit such circulation.
726
- 727 3. To provide, where appropriate, for integration and compatibility of residential uses with
728 commercial, office, research and development, or institutional uses.
729
- 730 4. To establish land use and design standards that will ensure compatibility with surrounding uses.
731
- 732 5. To establish standards and procedures through which the land use objectives and guidelines of
733 an approved and adopted master or area plan serve as the basis for evaluating an individual multi-
734 use neighborhood proposal.
735
- 736 6. To authorize development that is consistent or may be shown to be consistent with applicable
737 laws, regulations, and restrictions addressing environmental protection.
738
- 739 B. Where applicable. Land classified MX7 must be in an area for which an approved and adopted Use
740 same language as above master or area plan recommends mixed use development at an appropriate
741 scale.
742
- 743 C. Location. The location of properties identified as MX7 are limited to those identified in the Seven
744 Islands Master Plan. Properties identified as MX7 are limited to Tracts A-G, and I, and Blocks 6400-
745 6408, Unit 76, Cape Coral Subdivision.
746
- 747 D. Residential. Any type of dwelling unit as well as any accessory use is allowed, so long as the location
748 and mix of types must be consistent with the Seven Islands Master Plan. A residential use may be
749 intermixed with a nonresidential use or uses in the same block, lot, or building.
750
- 751 E. Maximum residential dwelling units and non-residential square footage. The maximum number of
752 residential dwelling units is 995 dwelling units, and non-residential square footage is 110,000 square
753 feet, no less than 40,000 of which is a community center. The mix of residential dwelling units and
754 non-residential square footage shall be in accordance with the Seven Islands Master Plan, concept D1.
755
- 756 F. Compatibility and design standards. All uses must conform to the guidelines of the Seven Islands
757 Master Plan. Uses must be compatible with existing or planned development on or adjacent to the
758 site.
759
- 760 1. Height and Orientation.
761
- 762 a. No building may be constructed to a height greater than 8 stories or 115 feet, or as indicated
763 in the Seven Islands Master Plan, Concept D1.
764
- 765 b. A building primarily used for retail or office use must be oriented toward the street on which
766 it fronts. Off-street parking shall be kept to a minimum between the building and the front
767 lot line.
768
- 769 2. External access and internal circulation.

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- a. The internal vehicular circulation system must follow a pattern of intersecting streets that provide alternative routes.
 - b. Points of external access and alignments of internal roadways must facilitate use of public transit. This includes providing sufficient rights-of-way for bus pull-outs and bus shelters, as well as transit easements on private streets.
 - c. A comprehensive pedestrian and bicycle circulation system must link all uses, with the intent of minimizing walking distances and reducing dependence on the private automobile for internal travel and external access; and include:
 - i. Pedestrian sidewalks within the rights-of-way of Old Burnt Store Road and Tropicana Parkway;
 - ii. Pedestrian pathways and bikeways within open space areas, in addition to the sidewalks, when environmental factors do not prohibit the construction of paths and bikeways; and
 - iii. Safe and convenient access to retail and service uses, community and public facilities, and public transit, carpool, or vanpool services.
3. Public facilities and utilities.
- a. All utility lines must be placed underground.
 - b. Street lighting must be provided in accordance with the site plan.
- G. Green area and public use space requirements. The minimum amount of green area is 30 percent of the gross area of the site. This green area must include the following:
- 1. Within the nonresidential area, a plaza for public use;
 - 2. Within the residential area, a public park or common open space suitable for active or passive recreation within a reasonable walking distance of any area devoted to multi-family or single-family attached dwelling units; and
 - 3. Integration of active and passive spaces to encourage joint use by employees and residents, subject to the following criteria:
 - a. Active open spaces include large, open play fields, local parks, and small recreation areas;
 - b. Passive open space areas and preserve natural features such as trees and wetlands; and
 - c. Active and passive open spaces will not be isolated from the Seven Islands development.
- H. Surface parking. The form, arrangement, and landscaping of off-street surface parking for multi-family dwellings and commercial uses are designed to avoid large expanses of paved area. Parking shall be away from the street frontage and in the interior of the lot, unless the City Council makes a finding that parking between the building and front lot line will serve the purposes of the district more effectively than an interior location.

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- 817
818 I. Drive-thru lanes prohibited. To encourage pedestrian-friendliness, no use may utilize drive-thru lanes
819 in the MX7 district.
820
821 J. Specific regulations for multi-family residences; single family attached 3 units or greater; commercial
822 parking lots and parking garages as a standalone use; movie theaters; craft brewery, distilleries, and
823 wineries; mobile food trucks; and home occupations are found in Article 5, Chapter 12 and 13.
824

825 **Section 4.5.15. South Cape District**
826

827 The South Cape District special regulations are intended to act as a stimulus to development through
828 provisions that permit a flexible approach to infill development within the City’s Community
829 Redevelopment Area. Developments providing affordable housing are incentivized by providing greater
830 residential density and building height than that permitted by right.
831

832 Specific conditions for multi-family residential and vehicle fueling stations are in Article 5, Chapter 12.
833

834 A. Maximum Density and Height
835

836 **Table 4.5.15. Maximum Density and Height**

	Maximum Height (stories/feet, whichever is less)	Maximum Density (d.u./acre)
Baseline	6/95	50
Minimum 20% of Units Affordable	10/120	70

- 837
838 1. All buildings or portions of buildings within 200 feet of the R1 zoning district shall be limited to six
839 stories or 95 feet, whichever is less.
840
841 2. Maximum building height shall not apply to the following building components: elevator and stair
842 bulkheads; solar energy systems; shade devices associated with parking structures or recreational
843 amenities; skylights or similar components associated with daylighting; and mechanical
844 equipment, provided that such equipment is architecturally screened on all sides.
845
846 B. Standards for site design. Sites shall be designed to incorporate safe and convenient vehicular use
847 areas and pedestrian ways, with landscape, lighting, and signage treatments intended to result in a
848 comprehensive design.
849
850 1. Streets. Streets in the South Cape zoning district are classified as follows:
851
852 a. Primary streets
853 i. Cape Coral Parkway
854 ii. Coronado Parkway
855 iii. SE 47th Terrace
856

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- 857 b. Secondary streets. All streets other than those included as a primary street within the
858 boundaries of the SC district.
859 i. Del Prado Boulevard
860 ii. Miramar Street
861 iii. Lafayette Street
862 iv. SE 46th Lane, Street
863 v. SE 10th Lane
864 vi. Leonard Street
865

- 866 c. Local streets. All streets other than those included as a primary or secondary.
867

868 **INSERT MAP**

- 869
870 2. Building setbacks.
871

- 872 a. Front. The following front setbacks are established based upon the established street types:
873 i. Primary: minimum, 8 feet; maximum 12 feet
874 ii. Secondary: minimum 8 feet; maximum None
875

- 876 b. Side.
877

- 878 i. If adjacent to an alley, a 5-foot setback is required; otherwise, 0.
879 ii. If adjacent to single family property, a minimum ten-foot setback, is required inclusive of
880 a five-foot landscaped strip.
881 iii. If adjacent to existing ROW, see subsection (a) above.
882 iv. If adjacent to a navigable waterway, fifteen feet.
883 v. If adjacent to a public utility easement, a minimum 6-foot setback is required.
884

- 885 c. Rear.
886

- 887 i. If adjacent to an alley, a 5-foot setback is required.
888 ii. If adjacent to single family property, a minimum ten-foot setback, is required inclusive of
889 a five-foot landscaped strip; otherwise 0.
890 iii. If adjacent to existing ROW, see subsection (a) above.
891 iv. If adjacent to a navigable waterway, fifteen feet

- 892 d. Variations in required in setbacks may be approved by the DCD Director to accommodate
893 pedestrian amenities, such as public plazas, pedestrian entries, outdoor dining areas and
894 similar public use areas, or landscaping.
895

- 896 3. Street Frontage Standards:
897

- 898 a. Parking structures or buildings elevated over surface parking lots shall have an occupied
899 ground floor space for a minimum depth of 20 feet from the frontage lines.
900

- 901 b. Properties with a frontage along a primary street, residential 1st floors are permitted beyond
902 a depth of 50 feet from the building setback. Buildings shall have a principal pedestrian
903 entrance on a primary frontage line.

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- 904
- 905 c. Properties with a frontage along a primary that abut an alley, vehicular egress shall be
- 906 provided from the alley rather than a frontage line.
- 907
- 908 d. No loading docks and service areas shall be on primary street frontage lines.
- 909
- 910 e. Outdoor storage areas are not permitted on primary street frontages.
- 911
- 912 C. Parking Requirements. Parking requirements for the South Cape district can be found in Article 6.
- 913
- 914 D. Affordable Housing Density Incentive. Density incentives are opportunities offered to property
- 915 owners and applicants to meet specific development goals while providing benefits to the
- 916 community at large. Developers who dedicate a minimum of 20% of the total units as affordable
- 917 will be eligible for increased density in accordance with Table 4.7.4.a Maximum Density and Height.
- 918
- 919 1. Location of Units. Affordable units must be provided on-site.
- 920
- 921 2. Maximum Number of Units. Developers shall not dedicate more than 50% of the total units as
- 922 affordable.
- 923
- 924 3. Criteria for affordable housing. The affordable housing development incentive shall be available
- 925 to a development only when an affordable housing incentive development agreement has been
- 926 entered into by the applicant and the City of Cape Coral and such agreement has been approved
- 927 by the City Attorney and the City of Cape Coral prior to execution. Amendments to such
- 928 agreement shall be executed in the same manner as the original agreement. The affordable
- 929 housing incentive development agreement shall include, at a minimum, the following
- 930 provisions:
- 931
- 932 a. Legal description of the land subject to the agreement and the names of its legal and
- 933 equitable owners;
- 934
- 935 b. Total number of residential dwelling units in the development;
- 936
- 937 c. Minimum number of affordable housing units, categorized by level of household income,
- 938 type of unit (condominium or rental), and number of bedrooms, required in the
- 939 development;
- 940
- 941 d. Total number of affordable housing dwelling units permitted in the development;
- 942
- 943 e. Gross residential density of the development;
- 944
- 945 f. Amount of monthly rent for rental units, or the price and conditions under which a
- 946 condominium unit will be sold, for each affordable housing unit;
- 947
- 948 g. The price of affordable housing units offered for rent or sale shall be based on the number
- 949 of bedrooms in the unit and shall not exceed low income limits established annually by the

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950 United States Department of Housing and Urban Development for the Metropolitan
951 Statistical Area which includes the Cape Coral downtown CRA;

952
953 h. No affordable housing unit in the development shall be rented or sold to a tenant whose
954 household income has not been verified as an income qualified family. Such verification
955 shall be the responsibility of the owner and shall be submitted to the City for approval.

956
957 i. No affordable housing unit that is to be sold, leased with option to purchase, or otherwise
958 conveyed by the development shall be sold, leased with option to purchase, or otherwise
959 conveyed to a buyer whose household income has not been verified and certified in
960 accordance with this subsection as low-income family. Such verification and certification
961 shall be the responsibility of the applicant and shall be submitted to the City for approval.
962 It is the intent of this subsection to keep housing affordable; therefore, any person who
963 buys an affordable housing unit must agree, in a lien instrument to be recorded with the
964 Clerk of the Circuit Court of Lee County, Florida, that if he or she sells the property (including
965 the land, the unit, or any combination thereof) within 15 years after his or her original
966 purchase at a sales price in excess of 5% per year of his original purchase price that he or
967 she will pay to the City of Cape Coral an amount equal to the sales price in excess of 5%
968 increase per year. The lien instrument may be subordinated to a qualifying first mortgage
969 at the option of the city. For example, a person originally buys a designated affordable
970 housing unit for \$100,000 and sells it after five years for \$150,000. A 5% increase per year
971 for five years will give a value of \$127,628. Deducting this amount from the sales price of
972 \$150,000 gives a difference of \$22,372. The seller would then owe the City of Cape Coral
973 \$22,372. Payment of this amount would release the first owner from the recorded lien
974 against the property. Such payment shall be maintained in a segregated fund, established
975 by the city solely for affordable housing purposes, and such money shall be used solely to
976 encourage, provide for, or promote affordable housing in the City of Cape Coral;

977
978 j. No affordable housing unit for which credit is awarded shall be occupied by the applicant,
979 any person related to or affiliated with the applicant, or a resident manager;

980
981 k. The applicant shall advertise, rent, sell, and maintain the affordable housing unit in a
982 nondiscriminatory manner and make available all relevant information to any person who
983 is interested in renting or purchasing such affordable housing unit. The applicant shall agree
984 to be responsible for payment of any real estate commissions and fees. The affordable
985 housing units in the development shall be identified on all building plans submitted to the
986 city and described in the application for affordable housing development incentive;

987
988 l. Except as required in this subsection, the applicant shall not disclose to persons, other than
989 the potential tenant, buyer or lender of the particular affordable housing unit or units,
990 which units in the development are designated as affordable housing units;

991
992 m. The square footage, construction and design of the affordable housing units shall be the
993 same as market rate dwelling units in the development;

994
995 n. The affordable housing units shall be integrated with, and not segregated from, the market
996 rate dwelling units in the development. The conditions contained in the affordable housing

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- 997 incentive development agreement shall constitute covenants, restrictions, and conditions
998 which shall run with the land and shall be binding upon the property and every person
999 having any interest therein at anytime and from time to time. The affordable housing
1000 incentive development agreement shall be recorded in the official records of Lee County,
1001 Florida, subsequent to the recording of the deed pursuant to which the applicant acquired
1002 fee simple title to the property;
- 1003
- 1004 o. In the case where a development will occur in more than one phase, the percentage of
1005 affordable housing units to which the applicant has committed for the total development
1006 shall be maintained in each phase and shall be constructed as part of each phase of the
1007 development on the property. For example, if the total development's affordable housing
1008 development incentive is based on the provision of 10% of the total dwelling units as
1009 affordable housing rental units for low income households with two bedrooms per unit,
1010 then each phase shall maintain that same percentage (10% in this case) cumulatively.
- 1011
- 1012 p. Each affordable housing unit shall be restricted to remain and be maintained as an
1013 affordable housing unit designated in accordance with the affordable housing incentive
1014 development agreement for at least 15 years from the issuance of a certificate of occupancy
1015 for such unit; and
- 1016
- 1017 q. The applicant and owner of the development shall provide on-site management to assure
1018 appropriate security, maintenance and appearance of the development and the dwelling
1019 units where these issues are a factor.
- 1020
- 1021 3. Certificate of Occupancy. A certificate of occupancy shall not be issued to any affordable unit
1022 until all affordable housing requirements applicable to that unit are satisfied. If, after the
1023 issuance of the first certificate of occupancy, the city determines any requirement in this
1024 subsection has not been met, then the city may revoke the certificate of occupancy and would
1025 subject the applicant or owner to any penalty imposed by law.
- 1026
- 1027 E. Specific regulations for: multi-family residences; commercial parking lots and parking garages as a
1028 standalone use; vehicle fueling stations; craft brewery, distilleries, and wineries; mobile food trucks;
1029 wireless antennas; and home occupations are found in Article 5, Chapter 10 and 11.
- 1030
- 1031 F. The minimum dwelling unit size in the South Cape District may be 500 square feet provided all
1032 requirements of the Florida Building Code are met.
- 1033

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ARTICLE 5 – DEVELOPMENT STANDARDS**

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- Section 5.1.2. Connection to utilities.
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- Section 5.1.8. Sidewalks and alleys.
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54

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56

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- 67 Section 5.5.11. Planting in public drainage or utility easements.
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- 70 Section 5.5.14. Irrigation.
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77

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79

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82

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84

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89

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109	Section. 5.9.4. Garage sales.
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151

152 **CHAPTER 1. GENERAL REQUIREMENTS FOR ALL DEVELOPMENT**

153

154 **Section 5.1.1. Purpose and Intent**

155

156 The purpose of this article is to provide standards for all development in the City of Cape Coral.

157

158 **Section 5.1.2. Connection to utilities.**

159

160 All development is required to connect to public or private utilities, as required as by the City of Cape
161 Coral Code of Ordinances, Chapter 19 Water and Sewer Utilities.

162

163 **Section. 5.1.3. Requirements for underground utilities.**

164

165 A. In new residential subdivisions, all utility lines (including electrical power distribution, telephone,
166 communication, street lighting, and cable television signal service) shall be installed underground.
167 This Section shall apply to all cable, conduits, or wires forming part of an electrical distribution system,
168 including service lines to individual properties.

169

170 However, this Section shall not apply to wires, conductors, or associated apparatus and supporting
171 structures whose exclusive function is in transmission of electrical energy between generating
172 stations, substations, transmission lines of other utility systems, and main distribution feeder electric
173 lines delivering power to local distribution systems. Appurtenances such as transformer boxes,
174 pedestal-mounted terminal boxes, and meter cabinets may be placed above ground and in such a
175 manner as to minimize noise effects upon the surrounding residential properties.

176

177 B. The developer shall provide for the necessary costs and other arrangements for such underground
178 utility installation.

179

180 C. For all new buildings in the Commercial Corridor, South Cape, and PUD zoning districts all onsite
181 utilities including telephone, electricity, cable television, and other wires of all kinds shall be placed
182 underground. However, appurtenances to these systems that require aboveground installation,
183 including utility panel boxes, are exempt from this requirement if the appurtenances are not placed
184 in front yards. When such appurtenances are placed in utility easements abutting a platted alley,

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185 they shall be placed at least ten and one-half feet from the centerline of the platted alley. These
186 underground requirements also apply to those improvements to non-conforming structures that
187 exceed the 50% thresholds as described in Article 8, Nonconformities. All utility infrastructure,
188 including electric utility poles and power lines, shall be concealed from public view wherever
189 possible. All new electric distribution lines shall be located in utility easements abutting platted
190 alleys and the utility poles shall be positioned so that a minimum clearance of ten and one-half feet
191 from the centerline of any platted alley is maintained. For properties that do not have a rear platted
192 alley, the electric distribution lines and utility poles shall be placed in the rear utility easement
193 wherever possible.

194
195 D. In the South Cape zoning district where overhead or underground utility lines have been placed in
196 the six-foot PUE, a property owner shall choose one of the following options:

197
198 1. Relocate the utility lines to the alley or other acceptable location, at the property owner's sole
199 expense, and subject to approval by the affected utility provider(s) and the City of Cape Coral;
200 or

201
202 2. Place a concrete sidewalk or architectural elements on the front six-foot property setback. If
203 overhead electric lines are in place, no awnings, canopies, balconies, colonnades, arcades, or
204 front porches may be constructed forward of this line even if otherwise required by this code.
205 If underground lines of any type are in place, the property owner is solely responsible for
206 repairing any damage to lawful encroachments into the six-foot easement resulting from
207 maintenance or improvements to utility lines.

208
209 **Section 5.1.4. Access required.**

210
211 Except as otherwise provided, all building sites shall have access on a street or a road shown on an
212 approved and recorded final plat. One or more buildings may have no direct access to a street provided
213 that the approving authority finds that such building site(s) have adequate indirect access to a street such
214 as a recorded easement or right-of-way through or over another parcel. The city may prohibit direct access
215 from a parcel or building site to a street when the approving authority finds that prohibition of direct
216 access would promote the public health, safety, and welfare based on factors including traffic or
217 transportation safety and when the parcel or building site could be afforded indirect access to a street or
218 other road via another parcel or building site.

219
220 **Section 5.1.5. Protection of underground pipelines and utilities.**

221
222 A. Intent. It is the intent of the City Council to protect underground pipelines and utilities from
223 destruction or damage to prevent:

- 224
225 1. Death or injury to persons;
226
227 2. Property damage to private and public property; and
228
229 3. Loss of essential pipeline or utility services to the general public.
230

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- 231 B. Notice requirements for excavation. No excavator shall make or begin any excavation on public
232 property or dedicated easements without first obtaining information concerning the possible
233 location of utility lines in the area of the proposed excavation. The excavator may obtain such
234 information by contacting each entity who may have utility facilities in the area of the proposed
235 excavation. Such contact may be made by telephone, written correspondence, e-mail, messenger,
236 or in person.
237
- 238 C. Notice requirements when marking of lines is necessary. If marking of utility lines is necessary, the
239 excavator shall notify that entity so that the entity receives notification at least 48 hours (excluding
240 Saturdays, Sundays and legal holidays) prior to the commencement of the excavation. When
241 marking is necessary the utility line concerned shall be marked by the entity. Marking of a utility
242 line is necessary when:
- 243
- 244 1. A proposed excavation, except blasting, is planned with five feet of a utility line located on
245 public property or a dedicated easement.
 - 246
 - 247 2. A proposed excavation, by blasting, is planned in such proximity to a utility line that the utility
248 line will be destroyed, damaged, or disturbed.
 - 249
- 250 D. Penalties for violation. Any person violating this section shall be punished as provided in the Code
251 of Ordinances of the City of Cape Coral.
252

253 **Section 5.1.6. Protection of easements.**
254

- 255 A. In the R-1, RML, RE, and A zoning districts, the six-foot easement around the perimeter of sites shall
256 be preserved and nothing shall be placed or constructed on such easements other than a paved
257 driveway, walkway, sidewalk, fences or well. In addition, for non-residential uses lawfully located
258 in residential zoning districts, paved off-street parking areas may be placed or constructed on the
259 six-foot easement around the perimeter of the site.
260
- 261 B. In the RMM zoning district, where lot depth is greater than 131 feet, the six-foot easement around
262 the perimeter of the sites shall be preserved and nothing shall be placed or constructed on such
263 easement other than a paved driveway, walkway, sidewalk, paved off-street parking areas, or a well
264 when site conditions make it impractical to locate elsewhere. On sites with a depth of less than 131
265 feet, paving of the front easement for parking purposes shall be permitted.
266
- 267 C. Lawn sprinkler systems and landscaping may be placed in the 6' PUE easements as permitted by the
268 Code of Ordinances or the Land Development Code.
269
- 270 D. In the C, CC, I, INST, MX, MXB, MX7, NC, P, and SC zoning districts, paved off-street parking areas,
271 paved driveways, sidewalks, wells, walkways at ground level, lawn sprinkler systems, or landscaping
272 may be placed in an easement provided that all other requirements of the Code of Ordinances or
273 the Land Development Code are met.
274
- 275 E. Nothing in this section shall prohibit the construction of seawalls, davits, docks, or other structures
276 as permitted by the Cape Coral Code of Ordinances.

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- 277
278 F. If a utility removes, damages, or disturbs the construction or other material within an easement as
279 allowed by this section, the property owner shall be responsible for the cost of its removal,
280 relocation, repair, or replacement. If any plant material in an easement required by Chapter 5 of
281 this Article of the Land Development Code is removed or damaged, the property owner shall replace
282 all such material within 30 days of the completion of the utility work. In addition, prior to issuing a
283 permit to locate, place, construct, or install any structure, construction, driveway, or other material
284 in an easement, the city may require the property owner to agree to indemnify and to hold the city
285 harmless from any or all costs or expenses incurred as a result of such location, placement,
286 construction, or installation in the easement.
287
288 G. The city may deny applications to place wells, fences, walls, or other materials in an easement if
289 such would conflict with existing or proposed utilities or drainage functions.
290

291 **Section. 5.1.7. Required visibility triangles.**

292
293 As an aid to allow for safe operation of vehicles, pedestrians, and cyclists in the proximity of intersecting
294 streets, driveways, alleys, and bicycle paths, there shall be limitations on the height of fences, walls,
295 gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures as visually depicted in
296 the Cape Coral Engineering and Design Standards and as follows:
297

- 298 A. All landscaping and signs within the visibility triangle shall provide unobstructed visibility between
299 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard.
300
301 B. The property owner shall be responsible for maintaining all landscaping within the visibility triangle.
302
303 C. Landscaping, except required turf and ground cover, shall not be closer than five feet from the edge
304 of any roadway and three feet from the edge of any alley or pavement.
305
306 D. It shall be unlawful for any person to plant or cause to be planted any tree or shrub or to place any
307 structure in the public right-of-way without the necessary permit.
308
309 E. The elevation grades of the public right-of-way adjacent to private property shall not be altered.
310
311 F. The Community Development Director shall make the final determination regarding visibility
312 triangles.
313
314
315

316 **Section 5.1.8. Sidewalks and alleys.**

- 317
318 A. Non-Residential Zoning Districts. As part of construction of each building erected in non-residential
319 zoning districts (C, CC, I, INST, MX, MXB, MX7, NC, P, and SC) sidewalks shall be installed prior to
320 the issuance of a certificate of occupancy pursuant to the standards and specifications set forth in
321 the City of Cape Coral Engineering Design Standards.
322

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- 323 B. All sidewalk, curbs, and gutters shall be constructed to the widths shown in the City of Cape Coral
324 Engineering Design Standards, except where a sidewalk has been installed and the established
325 width is less than five feet, the minimum width of the sidewalk to be installed shall be the width of
326 the existing sidewalk.
327
- 328 C. All improvements in the public right of way such as curbing, street paving, and gutters shall be
329 constructed according to the City of Cape Coral Engineering and Design Standards.
330
- 331 D. Lot owners who erect buildings or change the use on only a portion of a lot must provide the curbs,
332 sidewalks, and gutters for the entirety of the property, as required by this subsection, which shall
333 be at the expense of the lot owner.
334
- 335 E. As part of the construction of each building erected in the C, CC, I, INST, MX, MXB, MX7, NC, P, and
336 SC zoning districts adjacent to a platted alley the alley shall be improved prior to the issuance of a
337 certificate of occupancy. Such alley portion shall be constructed in accordance with the Engineering
338 Design Standards along the length of the property line of the site lying adjacent to the platted alley.
339 In addition to new construction in the C, CC, I, INST, MX, MXB, MX7, NC, P, and SC zoning districts,
340 alterations to existing sites lying adjacent to a platted alley shall be required to make the alley
341 improvements required by this section if the value of such alterations exceeds 50% of the
342 replacement value of the site improvements. These improvements include parking areas, internal
343 curbing, and retention areas but exclude internal, previously existing modifications to the building.
344
- 345 F. Payment in Lieu of Construction. At the discretion of the City, the City may accept payment in lieu of
346 construction for all or part of the off-site improvements required by the City. For projects where
347 payment in lieu of construction will be employed, the developer shall submit to the City 110% of the
348 estimated cost of the improvements as prepared by a professional engineer licensed in the state of
349 Florida, which shall be reviewed and approved by the City. The developer shall provide the City with
350 payment for all construction costs prior to the issuance of a development permit for the site.
351
- 352 G. Residential. As part of the construction of each building erected in the R1, RML, RMM, RE, and A
353 zoning districts, sidewalks shall be required adjacent to streets designated for sidewalks by the
354 Comprehensive Plan Traffic Circulation Element and Bicycle Pedestrian Plan. This does not apply to
355 existing structures that are being remodeled or repaired.
356

357 **Section 5.1.9. Work in the Public Right-of-Way and Public Utility Easements**
358

- 359 A. General. Except as provided below, no construction, change, modification, or alteration of any
360 type or nature whatsoever, including, but not limited to, the addition or removal of fill,
361 vegetation, or other materials, and/or the placement, installation or erection of any object or
362 vegetation, shall be allowed within a city-owned right-of-way or swale, except as provided in
363 Chapter 1 of this Article.
364
- 365 B. No permit required. The following work and/or activities shall be allowed in the public right-of-
366 way or roadway easement areas without the necessity of a city permit:
367

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- 368 1. Trimming, cutting, and/or maintenance of trees, shrubs, and other vegetation existing as of
369 the effective date of this ordinance in the public rights-of-way or swales;
370
- 371 2. Markers, commonly known as buttons, turtles, or half-moons, may be placed 18 inches from
372 the edge of the pavement in residential zoning districts provided that such markers shall not
373 exceed a height of four inches. However, no markers shall be placed within any public right-
374 of-way which is adjacent to a roadway with four or more lanes;
375
- 376 3. Mailboxes may be placed in the public rights-of-way or swales so long as they are in
377 accordance with the City of Cape Coral Engineering Design Standards. The mailbox may be
378 immediately surrounded by a small bed consisting of landscape edging materials or concrete
379 curbing, bedding plants and/or groundcover, and mulch or decorative rock provided that
380 such decorative rock shall not exceed four inches when measured in any direction, pursuant
381 to Chapter 5 of this Article. In no event shall the diameter of the plant bed exceed two feet
382 when measured from the outer-most edges of any landscape edging material or concrete
383 curbing utilized;
384
- 385 C. Permit required. The following work and/or activities shall be allowed in the public right-of-way
386 or roadway easement areas provided that the property owner first obtains a permit from the
387 city:
388
- 389 1. Culvert installation and appurtenant work;
390
- 391 2. Sod installation and appurtenant work;
392
- 393 3. Driveway installation and appurtenant work;
394
- 395 4. Curb, gutter, sidewalk, sod, and paving without alley improvements;
396
- 397 5. Curb, gutter, sidewalk, sod, and paving, with alley improvements;
398
- 399 6. Installation of sprinkler systems. However, if the sprinkler system is disturbed, damaged, or
400 destroyed by the City performing work in the public right-of-way, the owner shall be solely
401 responsible for any cost resulting from such disturbance, damage to, or destruction of the
402 sprinkler system in the right-of-way; and
403
- 404 7. Median landscaping as permitted in Chapter 5 of this Article.
405
- 406 D. Under no circumstances shall any of the activities permitted above result in any change,
407 modification, or alteration of any type whatsoever, to the established grade, slope, or contour of
408 the public swale or right-of-way not specifically addressed by the *City of Cape Coral Engineering*
409 *Design Standards* .
410
- 411 E. None of the prohibitions contained in this ordinance shall apply to any construction, change,
412 modification, or alteration within a public right-of-way or swale which is performed by or
413 required by a governmental entity or public utility.

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- F. Public Utilities. No public utility including electric, phone, cable tv, internet, cellular, or gas company will be allowed to install or maintain facilities, begin construction, change, modify, or alter in any way whatsoever the public right-of-way, swale, or adjacent public utility easements, including the addition or removal of fill, vegetation, or other materials, without a permit.

Section 5.1.10. Maintenance of city rights-of-way.

All property owners shall be responsible to either maintain or construct the city-owned right-of-way lying between their property boundaries and the city pavement, to include the following standards.

- A. Prior to preparation of a building lot for construction, the building permit holder shall obtain the correct swale flow line elevations from the Engineering Department and proceed immediately to create the required swale needed to allow continuous uninterrupted flow of stormwater throughout the construction process.
- B. During construction or reconstruction straw bales or other approved erosion control devices shall be placed in the swale adjacent to both property lines to impede all foreign matter from entering the stormwater system. The erosion control devices shall remain in place until placement of final sod in the right-of-way.
- C. No excavated material or construction material shall restrict stormwater flow within the swale area.
- D. Upon issuance of the certificate of occupancy, the owner shall maintain the swale indefinitely to the same standard that is applied to privately-owned property.
- E. All pavement cuts must be repaired to meet or exceed engineering design standards.

Section 5.1.11. Building numbers and addresses.

All buildings in the City of Cape Coral shall display a proper building number at least four feet from the ground level. All building numbers shall be visible from the public right-of-way which the front of the building faces. Building numbers of sufficient size which are affixed to both sides of mail boxes on such right-of-way or building numbers which are affixed to lawful signs not attached to the building may be substituted for number affixed to buildings.

Section 5.1.12. General regulations for lots, yards, and setbacks.

- A. Double frontage other than corner lots. Double frontage other than corner lots shall meet front setback regulations on all adjacent streets.
- B. Corner lots. In the SC and MXB zoning district(s), corner lots shall be deemed to have front lot lines abutting all street right-of-way lines. For corner lots in all other zoning districts, the following shall apply:

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- 459 1. The front of any building site shall be determined by the lesser dimension of a single lot (not
460 building site). This frontage shall have the established setback for the particular zoning district,
461 but in no instance be less than 25 feet.
462
- 463 2. The remaining street frontage shall have a setback of no less than ten feet in all zoning districts.
464 The remaining street frontage shall be maintained as a front yard and the regulations for fences,
465 shrubbery, and walls of this ordinance shall apply.
466
- 467 3. On sites bounded by three streets, one lot line shall be designated by the Director as the rear
468 and maintained as the rear setback of that zoning district. For purposes of this section, all but
469 the rear yard shall be maintained as a front yard and the regulations for fences, shrubbery, and
470 walls of this ordinance shall apply.
471
- 472 4. The front of a single-family residential building shall not be offset from the front property line
473 by an angle greater than 45 degrees.
474
- 475 C. No parcel shall be reduced below the minimum dimensional requirements in the zoning district.
476 This provision shall not apply when a portion of a parcel is acquired for a public purpose.
477

478 **Section 5.1.13. Single-family residential standards**
479

480 In addition to all other provisions of this Code, single-family residential uses shall be subject to the
481 following requirements.
482

- 483 A. In the R1 and RE zoning districts only one single family residence shall be permitted per parcel.
484
- 485 B. Ornamental walls. Ornamental walls attached to the principal building shall have the following
486 requirements
487
- 488 1. Ornamental walls shall not be higher than four feet at any point where they extend beyond the
489 roof overhang and into the side setback.
490
- 491 2. Ornamental walls may extend into the side setback but shall not extend into the six-foot
492 perimeter easements.
493
- 494 3. An ornamental wall not to exceed 30 inches in height may be installed in the front yard.
495
- 496 4. Ornamental walls may be in the form of a planter.
497
- 498 4. A planter may be incorporated into the construction of a wingwall.
499
- 500 C. Water discharge. All gutter downspouts or similar water discharge devices shall direct the discharge
501 to the front or rear property lines.
502

503 **Section 5.1.14. Multi-family residential.**
504

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505 In addition to other provisions of this ordinance, single-family attached structures, duplexes, and multi-
506 family residential uses shall be subject to the following requirements.

507

508 A. Distance between buildings.

509

510 1. Clustered buildings. Buildings may be constructed on proper building sites in cluster style
511 providing a minimum of 20 feet is maintained between the buildings up to a height of 38 feet.

512

513 a. One foot shall be added to the 20-foot distance for every foot of height increase over 38
514 feet.

515

516 b. Carports will not be considered in determining the 20-foot distance between buildings.

517

518 B. Water discharge.

519

520 1. Water discharge. All gutter downspouts or similar water discharge devices shall direct the
521 discharge to the front or rear property lines.

522

523 2. This provision shall be applicable only to duplexes in multi-family residential uses.

524

525 **Section 5.1.15. Dumpster Enclosures.**

526

527 Except where noted below, all sites with uses other than single-family residences and duplexes, shall
528 provide commercial trash receptacles in accordance with the regulations in this section.

529

530 A. Screening.

531

532 1. Except for the SC and MXB Districts, when commercial trash receptacles are in a rear yard that
533 abuts an alley, all commercial trash receptacles shall be enclosed from view on at least three sides
534 by an opaque visual barrier.

535

536 2. When a commercial trash receptacle is visible from an adjacent property or an adjacent street, at
537 ground level, then the commercial trash receptacle shall be enclosed on the fourth side by an
538 opaque gate that shall be the same height as the opaque visual barrier on the other three sides.

539

540 3. The principal structure may be used as the opaque visual barrier on one or more sides provided
541 the commercial trash receptacle is completely concealed from view.

542

543 B. Materials.

544

545 1. The following materials, either singly or in any combination, are the only materials that may be
546 used for the opaque visual barrier and gate:

547

548 a. Wood fencing;

549

550 b. Plastic or vinyl fencing;

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- 551
552 c. Concrete block and stucco wall;
553
554 d. Brick wall; or
555
556 e. Formed, decorative, or precast concrete.
557
558 2. Chain link fencing, whether singly, or combination with other materials, including plastic slats,
559 shall be prohibited.
560
561 3. Gates shall be constructed of a durable, opaque material, consistent or complimentary in color
562 with the enclosure and of a height to screen the container.
563
564 C. Location.
565
566 1. Commercial trash receptacles shall not be located on unimproved sites.
567
568 2. Commercial trash receptacles and accompanying visual barriers, are subject to the following
569 minimum setbacks:
570
571 a. Six feet from the front property lines in the SC and MXB Districts.
572
573 b. Three feet from alley rights-of-way.
574
575 3. When located in a public utility or drainage easement, the property owner shall be solely
576 responsible for removal of the commercial trash receptacle as well as for any cost resulting from
577 disturbance, damage, destruction, or restoration of the receptacle resulting from work associated
578 with utilities in such easement. Prior to issuing a permit, the City may require the property owner
579 to agree, in writing, to indemnify and to hold the city harmless from any costs or expenses
580 resulting from placing a commercial trash receptacle in an easement.
581
582 4. A commercial trash receptacle may be placed on an adjoining property provided that the premises
583 are adjacent to or directly behind the development and written consent of the adjoining property
584 owner is submitted to and approved by the Director. The adjoining property owner may revoke
585 this consent upon written notice to the development and the Director. The development shall
586 have 30 days from revocation to relocate the commercial trash receptacle and to comply with all
587 requirements of this section.
588
589 5. Developments within 25 feet of a City-owned parking lot may, upon approval by the Director,
590 locate enclosures on the City-owned parking lot. Approval may be revoked at any time, upon
591 reasonable notification, by the City.
592
593 D. Dimensions. The dumpster enclosure shall have a minimum interior dimension of ten feet by ten feet
594 and a height at least six inches higher than the enclosed commercial trash receptacle. Neither the
595 dumpster enclosure or the gate providing access to the commercial trash receptacle shall be
596 considered a fence or a wall pursuant to the City Code of Ordinances or Land Development Code.

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- 597
598 E. All dumpster enclosures shall be located so that a sanitation vehicle has physical access to the
599 commercial trash receptacle that is adequate for safely servicing the facility.
600
601 F. Each commercial trash receptacle shall be located on a concrete pad.
602
603 G. All solid waste or other refuse, including recycling materials stored in commercial trash receptacles,
604 shall be concealed by a lid attached that shall remain in the closed position unless materials are being
605 placed into the receptacle or the receptacle is being serviced. No material shall be permitted to
606 overflow the receptacle.
607
608 H. In the event a commercial trash receptacle is in a dumpster enclosure that includes a gate, regardless
609 of whether such a gate would have been required pursuant to this section, the gate shall be of a type
610 that opens sufficiently to allow unimpeded access to the trash receptacle by the sanitation vehicle
611 and shall have drop pins, hooks, or other devices installed to hold the gate open while the receptacle
612 is being serviced. All gates shall remain closed unless the receptacle is being serviced.
613
614 I. Deviations. In the event an owner is unable to comply with the requirements of this section, the owner
615 may request an administrative deviation from the Director. In determining whether to approve an
616 administrative deviation, the Director shall consider factors such as dimensions of the property, site
617 constraints such as existing development, or other location factors that may make compliance with
618 this section impossible or impractical. The determination to approve an administrative deviation shall
619 be at the sole discretion of the Director.
620
621 J. Maintenance. Commercial trash containers shall be maintained in a manner which is not a nuisance
622 to surrounding uses.
623
624 1. The receptacle shall be stored in the enclosure and the gate(s) to the enclosure shall remain closed
625 at all times unless it is being accessed at that time.
626
627 2. Refuse may not be left outside of the enclosure or on the ground within the enclosure.
628

Section 5.1.16. Outdoor seating.

629
630
631 Outdoor seating may be permitted as an accessory use to a restaurant, hotel, bar, or fraternal organization
632 provided the following conditions are met:
633

- 634 A. All outdoor seating:
635
636 1. Music may be permitted to be performed or amplified in outdoor seating areas, in accordance
637 with Section 12-22 of the City's Code of Ordinances, or in accordance with a permit per Chapter
638 9 of this Article.
639
640 2. Parking shall be provided at a rate of 1 parking space per 200 square feet of outdoor seating area.
641
642 B. Outdoor seating in public areas.

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1. The number of outdoor seats and tables shall be limited to that number that can be reasonably accommodated according to the available widths of the associated storefront and sidewalk or patio area. Adjacent sidewalk bulb-out areas, even if not directly in front of the associated storefront, may be considered on an individual basis, when the affected storefront owner does not object.
 2. Clear pedestrian access shall be maintained at all times, and no seating or tables shall interfere with ingress and egress to buildings or create an unsafe situation with street traffic.
 3. The sidewalk café owner or operator shall remove any seating or tables when the business is closed, or when an authorized agent of the city makes such a request.
 4. Public sidewalks adjacent to any approved sidewalk café shall be properly maintained for safety and cleanliness by the sidewalk café owner or operator on a daily basis. Litter, dirt, grime, grease, and food shall not be permitted to accumulate at any time.
 5. An indemnity agreement, provided by the director of Community Development shall be signed and provided by the sidewalk café owner or operator, along with proof of public liability insurance as approved by the city attorney.

664 **CHAPTER 2 ACCESSORY STRUCTURES**

665
666 **Section. 5.2.1. General Requirements.**

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- A. This chapter shall pertain to residential properties unless otherwise specifically stated herein. Accessory structures on non-residential properties shall be reviewed per the standards of that zoning district. Agriculturally zoned properties shall not be considered residential for purposes of this section.
 - B. Accessory buildings shall be constructed to conform to the minimum building requirements and shall meet all other regulations applicable to the district.
 - C. Residential accessory buildings shall be in the rear yard, other than those listed in Section 5.2.1, and shall comply with all of the requirements found in this Section.
 - D. Accessory structures, such as pergolas, arbors, trellises, and flag poles may be in the rear, side, or front yard of the primary structure. Fences and sheds may be permitted in the rear or side yard of the primary structure.
 - E. No accessory structure, including fences, shall be constructed on any residential parcel not containing a primary structure.
 - F. Accessory buildings shall be elevated above the base flood elevation (BFE) or provide hydrostatic vents consistent with FEMA regulations.

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- 688 G. All nonconforming accessory structures shall be subject to the requirements of Article 8
689 Nonconformities.
690
691 H. Any accessory structure not listed in this chapter may be reviewed and considered for approval
692 through a similar use determination process.
693
694 I. In non-residential districts, all accessory structures shall be reviewed and held to the same standard
695 as a non-residential structure.
696
697 J. Setbacks shall be measured from the property line and must be considered in addition to all other
698 locational requirements.
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700

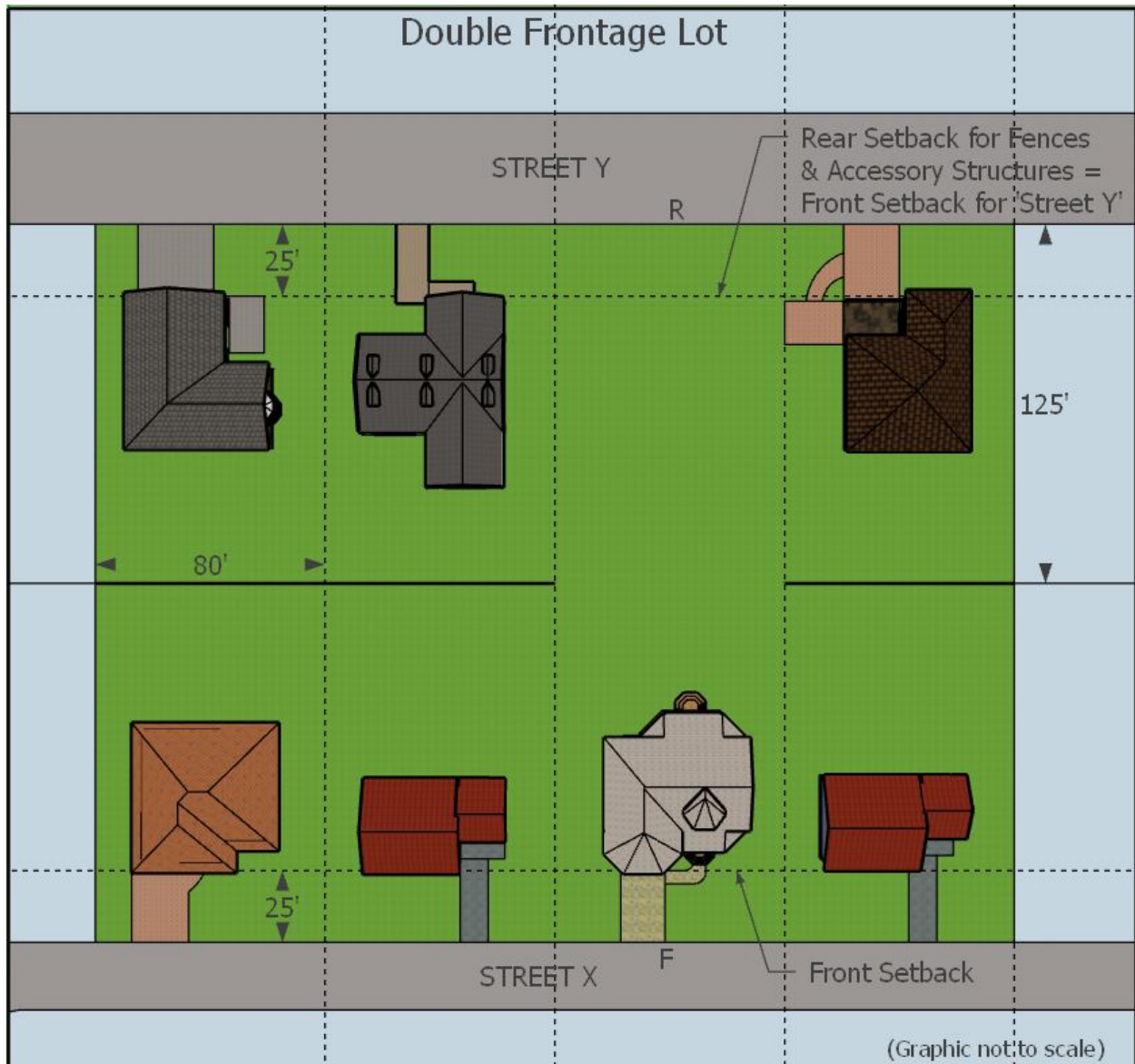
Table 5.2.1.A. Setback Requirements for Accessory Structures.

Residential Accessory	Setback – measured from property line			Maximum Building Height	Separation Distance
	Front Yard	Side Yard	Rear Yard		
Arbors, trellises, pergolas	Sec 5.17	7.5 ft.	10 ft.	14 ft.	N/A
Courts and Playing Surfaces	X	7.5 ft.	10 ft.	N/A	N/A
Decks, unenclosed	X	7.5 ft.	10 ft.	30 inches	N/A
Detached Garage	X	SAP	10 ft.	14 ft.	5 ft.
Fences and Walls	Per Sec 5.1.12				N/A
Flagpoles	15 ft.	7.5 ft.	10 ft.	35 ft.	N/A
Fountains and Sculptures	15 ft.	10 ft.	10 ft.	Per sec 5.1.15	N/A
Gazebo	X	7.5 ft.	10 ft.	10 ft.	5 ft.
Greenhouse	X	SAP	SAP	15 ft.	5 ft.
Detached guesthouse/ADU's	X	SAP	SAP	14 ft.	5 ft.
Swing sets and similar play structures	X	7.5 ft.	6 ft.	8 ft.	N/A
Solar Photovoltaic (PV) Arrays, at grade	X	7.5 ft.	10 ft.	9 ft.	N/A
Sheds	X	7.5 ft.	10 ft.	14 ft.	5 ft.
Sunshelter	X	7.5 ft.	6 ft. or over a dock	14 ft.	5 ft.
Swimming pools and reflecting pools	X, RE≥3 acres SAP	7.5 ft., RE≥3 acres SAP	10 ft., RE≥3 acres SAP	30 inches	N/A
Swimming Pool Screen enclosure	X, RE≥3 acres SAP	7.5 ft., RE≥3 acres SAP	10 ft., RE≥3 acres SAP	SAP	N/A

X Not permitted
SAP Same as Principle Structure
N/A Not Applicable

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Section 5.2.2. Accessory Dwelling Units (ADUs)

A. All ADUs shall comply with the following:

1. An ADU may be within a single-family detached dwelling or a detached accessory building on the same lot as a principal dwelling.
2. The accessory dwelling unit must have a bathroom and shall share the same sewage disposal and water supply systems as the principal dwelling unit unless separate sewer and water connections are required by the City of Cape Coral.
3. A minimum of one additional off-street parking space shall be provided. The additional space shall be on the same lot as the principal dwelling unit.

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- 717
718 4. No new access points or driveways shall be created or installed for access to the ADU.
719
720 5. The accessory dwelling may contain no more than a living area, one bedroom, one bath, and a
721 kitchen.
722
723 6. The owner of the property shall live in the principal dwelling or the ADU.
724
725 B. ADUs within a single-family dwelling shall comply with the following:
726
727 1. There shall only be one entrance to the front of the house. Separate entrances to an ADU are
728 permitted at the side or the rear of the principal dwelling unit.
729
730 2. If the ADU and the principal residence are on the same floor or story, the ADU shall be limited to
731 30 percent of the total living area of the principal dwelling or 800 square feet, whichever is less.
732 If the ADU is on a single floor or story and there is no increase in the size of the house, the entire
733 floor or story may be used for the ADU.
734
735 C. Detached structures serving as an ADU shall comply with the following:
736
737 1. May not exceed one story.
738
739 2. Must comply with the zoning district dimensional regulations.
740
741 3. Maximum building height shall not exceed 14 ft.
742
743 4. May not exceed 30 percent of the area of the primary structure or 800 square feet, whichever is
744 less.
745

746 **Section. 5.2.3. Arbors, trellises, and pergolas.**
747

- 748 A. Arbors, trellises, and pergolas shall be allowed as freestanding or attached structures. There is no limit
749 on the number of attached pergolas, arbors, and trellises per primary structure.
750
751 B. Freestanding pergolas and arbors are limited to 200 square feet of coverage per single-family
752 detached residential property. Freestanding pergolas and arbors are limited to 100 square feet per
753 unit of a duplex property.
754
755 C. The amount of freestanding square footage coverage for multi-family residential developments may
756 be determined by the Community Development Director. The criteria for this determination include:
757
758 1. Design, size, location, and number of proposed arbors, trellises, and pergolas;
759
760 2. Design, size of property, location, and number of units of the multi-family residential
761 development; and
762

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- 763 3. Whether the structure will be contrary to the public interest.
764
765 D. Attached pergolas.
766
767 1. Attached pergolas may be placed over the front entrance or walkway into a residence, and must
768 not extend beyond the most forward portion of the primary structure.
769
770 2. A pergola is considered attached if a minimum of 20% of the pergola’s perimeter is attached to
771 the primary structure.
772
773 3. A pergola that is attached to a previously-attached pergola is considered to be an extension of
774 the original attached pergola; the enlarged pergola must abide by the setback requirements listed
775 in Table 5.2.1.A.
776
777 E. Pergolas, generally.
778
779 1. Pergolas must conform to all zoning requirements in terms of height and setbacks.
780
781 2. The only exception to the prohibition of the placement of a pergola in the rear setback is for
782 pergolas on docks.
783
784 3. If placed in the rear yard of a waterfront property, or on a dock, pergolas must not unreasonably
785 restrict or block the view of the canal or waterway of an adjoining lot.
786
787 **Section. 5.2.4. Attached and detached garages.**
788
789 A. All single-family detached and each unit of a duplex structures shall include a garage with minimum
790 dimensions of 14 feet by 20 feet. Carports are prohibited on single-family detached and duplex
791 residential properties requiring a garage.
792
793 B. For attached garages, the following shall apply:
794
795 1. A garage shall be considered attached if it shares at least a four-foot length of common wall with
796 the principal structure. Attachment through a roof structure only shall not be adequate to
797 consider the garage attached.
798
799 2. For purposes of this LDC, an attached garage shall be considered to be a part of the principal
800 structure and shall comply with all district regulations for the zoning district in which it is located.
801
802 3. An operable garage door capable of providing access to the garage by a motor vehicle is required.
803
804 4. A driveway providing vehicular access to the garage is required and shall be constructed and
805 maintained in a condition that is safe and free of potholes, and in accordance with the City of
806 Cape Coral Engineering Design Standards.
807
808 5. The garage shall not be included in determining the living area.

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809
810 6. No garage or storage area shall be used as living quarters unless another garage is constructed
811 prior to conversion.

- 812
813 C. For detached garages, the following shall apply:
814
815 1. A detached garage shall meet all of the setback requirements of the principal structure.
816
817 2. A detached garage shall be on the same parcel as the principal structure.
818
819 3. A detached garage shall not exceed 800 square feet in area.
820
821 4. The height of a detached garage shall not exceed 14 feet in height when measured according to
822 the definition of "building height" in the Land Development Code.
823
824 5. An operable garage door capable of providing access to the garage by a motor vehicle is required.
825
826 6. The maximum size and height restrictions shall not apply in the RE district.
827
828 7. No plumbing shall be allowed in a detached garage except that a single one-compartment sink
829 shall be allowed.
830
831 8. The exterior building materials of a detached garage shall conform to the exterior building
832 materials of the principal structure.
833
834 9. A parcel may contain both an attached and detached garage, but only one detached garage shall
835 be permitted.

836
837 **Section. 5.2.5. Courts and playing surfaces.**

- 838
839 A. Requirements in the R1, RE, RML, and A districts.
840
841 1. Lighting is prohibited on all outdoor recreation facilities on all properties containing single-family
842 detached and duplex dwellings.
843
844 2. An opaque landscape hedge shall be planted between a recreational facility and a side or rear
845 property line of different ownership. The landscaping shall be maintained at a minimum of four
846 feet in height and shall be provided along the entire length of the recreational facility.
847
848 B. Requirements in the RMM or other districts with permitted multi-family uses.
849
850 1. Lighting may be installed to allow evening use of the facility. All outdoor lighting shall be installed
851 and maintained in such a manner that the light falls substantially within the perimeter of the
852 property through the use of shielding and limitations on intensity. In no instance shall the facility
853 lighting create glare off of the property exceeding 0.3 footcandles which impacts any roadway.
854 Directional lighting may not be installed which shines directly into any dwelling unit.

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- 855
856 2. An opaque landscape buffer, a minimum of four feet in height, shall be installed which shields the
857 recreational facility from any adjacent right-of-way. Fencing may be installed to a maximum
858 height of ten feet.

859
860 **Section. 5.2.6. Decks.**

- 861
862 A. Decks extending into rear or side yard may not exceed a height of 30 inches above grade. Decks over
863 30 inches in height shall meet all setbacks.
864
865 B. Deck height shall be measured from the walking surface of the deck, not the railing.
866
867 C. Railing shall be spaced in such a way as to allow air and light to pass through.
868

869 **Section. 5.2.7. Fences and walls.**

- 870
871 A. General Requirements.
872
873 1. All fences shall be of sound construction and not detract from the surrounding area.
874
875 2. No barbed wire, spire tips, sharp objects, or electrically charged fences shall be erected, except
876 as otherwise provided herein. This shall not be interpreted to mean that bona fide agricultural
877 users cannot use barbed wire or electrically charged fences to control livestock when located in
878 districts permitting the raising, keeping, or breeding of livestock.
879
880 3. No fences shall be placed within the visibility triangle.
881
882 4. If a fence or wall is located in a public utility or drainage easement, the property owner shall be
883 solely responsible for removal of the fence or wall as well as for any cost resulting from
884 disturbance, damage, or destruction of the fence or wall resulting from work associated with
885 utilities or drainage facilities, including those related to alley improvements within such
886 easement.
887
888 5. No fence shall enclose any utility meter, including water and electric service meters. The
889 location of any utility meters shall be shown in the permit application. This restriction shall not
890 apply to city maintained or constructed facilities.
891
892 6. Unless the posts or other supports used in connection with the fence or wall are visible from
893 and identical in appearance from both sides of the fence, all posts or other supports used in
894 connection with the fence or wall shall be on the side of the fence or wall that faces the property
895 on which it is to be erected. If a fence or wall is constructed in such a way that only one side of
896 the fence is "finished", then the "finished" side of the fence shall face outward toward the street
897 or adjoining property (facing away from the property on which it is erected). The "finished" side
898 of the fence shall be the side that is painted, coated, or smoothed so as to be more decorative
899 in appearance.
900

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- 901 7. Fencing for critical public utilities infrastructure, including water and wastewater facilities and
902 electric and natural gas facilities, which may enclose either an entire site or only an area
903 containing equipment, may be maintained at a height of eight feet. Barbed wire, spire tips,
904 sharp objects, or electrically charged fencing are permitted on the top of fencing around critical
905 infrastructure sites or equipment, however, the height of the fencing together with any barbed
906 wire, spire tips, sharp objects, or electrically charged fencing may not exceed eight feet, and
907 only the top two feet may contain barbed wire, spire tips, sharp objects, or electrically charged
908 fencing.
- 909
- 910 8. A fence shall not be constructed on unimproved property.
- 911
- 912 9. No wall or fence of any kind whatsoever shall be constructed on any lot until after the height,
913 type, design, and location has been approved in writing and proper permit issued by the
914 Director.
- 915
- 916 10. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must
917 immediately enclose the recreational facility. Hooded backstops for diamond sports may be
918 increased to a maximum height of 28 feet. For sports other than diamond sports, backstops
919 may be increased to a height of 12 feet. All fencing at recreational facilities must be constructed
920 of at least nine-gauge fence fabric and schedule 40 tubing.
- 921
- 922 11. A may be maintained at a height greater than otherwise allowed herein if a higher fence height
923 is required by the city for the purpose of screening a special exception use.
- 924
- 925 12. A fence or wall shall be constructed of one or more of the following materials:
- 926
- 927 1. Wood (decay resistant or pressure treated only), shall be painted or stained;
- 928
- 929 2. Concrete block with stucco (CBS);
- 930
- 931 3. Reinforced concrete with stucco;
- 932
- 933 4. Stone or brick, including cast (simulated) stone or brick;
- 934
- 935 5. Concrete;
- 936
- 937 6. Wrought iron;
- 938
- 939 7. Aluminum; or
- 940
- 941 8. Plastic or vinyl.

942
943 For fences or walls located in a public utility or drainage easement, only the following materials
944 are permitted:

- 945
946 1. Wood (decay resistant or pressure treated only);

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- 2. Aluminum;
- 3. Chain-link without slats; or
- 4. Plastic or vinyl.

B. Residential Zoning Districts.

- 1. A No fence shall be maintained at a height greater than six feet, and no wall or fence shall be erected or placed within the front setback lines of any residential lot, except if a residential use abuts property used for commercial or professional purposes, a fence may be maintained at a height up to eight feet along the side(s) of the property which abut(s) the property or properties containing commercial or professional uses. For purposes of this section, a property shall be deemed to abut another property if the two properties are either immediately adjacent to each other or separated only by an alley. Properties separated by a street, canal, lake, or other body of water shall not be deemed to be abutting properties.
- 2. Any fencing within 20 feet of the rear property line on waterfront sites must be open mesh above a height of three feet. The Director may, in his or her discretion, approve minor projections above the restricted heights for architectural features.
- 3. No part of a fence shall be located forward of the forward-most part of the side of the principal structure to which the fence is closest. In no instance shall a fence enclose any portion of the front facade of the principal structure.
- 4. No fence, hedge, or other growth shall be erected on any residential property within the city which shall unreasonably restrict or block the view of a canal or other waterway from an adjoining lot, or except as required to screen a special exception use. No fence or hedge or other growth shall be erected on property which would obstruct the view of either a pedestrian or driver of a moving vehicle so as to create a hazard to the health and welfare of its citizens.
- 5. Multi-family developments over 1 acre in size may construct a fence or wall around the entire perimeter of the property or in a location not otherwise allowed by this subsection.

C. Non-Residential and Mixed-Use Zoning Districts.

- 1. Construction of fences must meet the following restrictions:
 - a. Maximum height: six feet (except that property in a commercial, professional, or mixed-use zoning district, which contains a non-residential use, and which abuts a a residential use, whether such use is in a residential zoning district or mixed-use zoning district, may erect a fence up to eight feet in height along the side(s) of the property which abut(s) a residential use. A property shall be deemed to abut another property if the two properties are immediately adjacent to each other or separated by only an alley. Properties separated by a street, canal, lake, or other body of water shall not be deemed to be abutting properties.

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b. Required setbacks:

Front	No part of a fence shall be located forward of the forward-most part of the side of the principal structure to which the fence is closest. In no instance shall a fence enclose any portion of the front facade of the principal structure.
Side (not on a corner site)	None
Side (corner site)	None for free-standing residential uses in mixed-use zoning districts; 7 feet for non-residential and compound uses in Marketplace Residential zoning district; 10 feet for non-residential and compound uses in all other commercial, professional, and mixed-use zoning districts
Rear (not on alley)	None
Rear (on alley)	10 feet

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D. Multi-family developments over 1 acre in size may construct a fence or wall around the entire perimeter of the property or in a location not otherwise allowed by this subsection.

1000 E. Industrial zoning district:

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1. Maximum height: eight feet.

1002

2. Required setbacks: none, except that fences shall be setback 10' from alleys.

1003

1004

3. Fencing shall provide an opaque visual barrier, constructed of materials which conform to applicable codes, to conceal storage areas.

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1009 F. Agricultural zoning district:

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1. Maximum height: eight feet.

1011

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2. Required setbacks: none.

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1015 G. Institutional zoning district:

1016

1. Maximum height: eight feet.

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1018

2. Required setbacks: none, except that fences shall be setback 10' from alleys.

1019

1020

3. Fencing shall provide an opaque visual barrier, constructed of materials which conform to applicable codes, to conceal storage areas.

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1024 H. Preservation zoning district:

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1. Maximum height: eight feet.

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1027

2. Required setbacks: none.

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1029

1030 I. South Cape and MXB zoning district(s):

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1. Maximum height.
 - a. When placed in front yards, 42 inches.
 - b. When not placed in front yards, six feet (except that a property which contains a non-residential use, and which abuts a property containing a residential use, whether such use is in a residential zoning district or mixed-use zoning district, may erect a fence up to eight feet in height along the side(s) of the property which abut(s) a property containing a residential use). For purposes of this subsection, a property shall be deemed to abut another property if the two properties are either immediately adjacent to each other or separated by only an alley. Properties which are separated by a street, canal, lake, or other body of water shall not be deemed to be abutting properties.
 - c. Fences, walls, and hedges may be maintained at a height greater than otherwise allowed herein if a higher height is required by the city for the purpose of screening a special exception use.
 - d. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must immediately enclose the recreational facility. Hooded backstops for diamond sports may be increased to a maximum height of 28 feet.
 - e. Required setbacks:

Front	None
Side or rear (not on alley)	None
Side or rear (on an alley)	15 feet from the alley centerline
Abutting a navigable waterway	10 feet

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Section.5.2.8. Flags and Flagpoles.

- A. Residential zoning districts or sites with residential uses shall be limited to no more than two flagpoles.
- B. In non-residential zoning districts, in mixed use zoning districts, and on sites containing non-residential uses in residential zoning districts, no more than three flagpoles are allowed on a site.
- C. Flagpoles shall not exceed 35 feet in height other than those on non-residential properties abutting Pine Island Road which shall not exceed 80 feet in height.
- D. The installation of a flag standard on a site does not require a permit. The number of flags that may be displayed on a flagpole or on a single flag standard is not limited.
- E. For the purposes of this article, flags on non-residential, private property which contain a symbol other than that of a nation, government, political subdivision, or other entity shall be presumed commercial; however, it shall be considered a rebuttable presumption, which may be overturned by the Director if the evidence contradicting it is true or if a reasonable person of average intelligence could logically conclude from the evidence that the presumption is not valid.

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Section. 5.2.9. Fountains, reflecting pools, and sculptures.

- A. Fountains and sculptures shall not to exceed 12 feet in height.
- B. Reflecting pools greater than 24 inches in depth deep shall be fenced for safety.

Section. 5.2.10. Gazebos, sun shelters, and similar structures.

- A. Gazebos, sun shelters, and similar structures on residential single-family detached or duplex parcels may not exceed 150 square feet in roof coverage. The total area of all such structures shall not exceed 300 square feet.
- B. All structures in all other zoning districts may not exceed 300 square feet.
- C. The maximum height shall not exceed 14 feet above grade from the lowest point of the grade under the shelter, including overhangs.
- C. These structures shall not be constructed within six feet of any rear lot line except on waterfront lots where sun shelters are permitted to be constructed on docks. These structures shall not overhang the edges of the dock or be constructed over an easement.

Section. 5.2.11. Guest houses.

- A. Detached structures serving as a guest house shall comply with the following:
 - 1. Guest Houses shall only be on constructed on sites with a principal residential dwelling unit.
 - 2. May not exceed one story.
 - 3. Maximum building height shall not exceed 14 ft.
 - 4. May not exceed 30% of the area of the primary structure or 800 square feet, whichever is less.
- B. A guest house is not a dwelling unit to be rented, it provides only guest accommodations and shall meet the following requirements:
 - 1. A guesthouse may not contain more than two bedrooms.
 - 2. A guesthouse may not contain a kitchen or the electrical or gas connections to install a stove or oven.
 - 3. An additional parking space must be provided for a guesthouse.

Section. 5.2.12. Play or recreation equipment.

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1120 A. On residential single-family detached and duplex properties, the City shall not be responsible for
1121 permitting and inspection of play equipment.
1122

1123 B. Play equipment for other than single-family detached and duplex properties must be permitted and
1124 inspected prior to any use.
1125

1126 **Section. 5.2.13. Sheds and greenhouses.**
1127

1128 A. The maximum height of a shed or greenhouse shall not exceed 15 feet in overall height.
1129

1130 B. The maximum floor area shall not exceed 200 square feet.
1131

1132 C. Sheds and greenhouses are allowed in the R1, RML, RE, and A districts.
1133

1134 D. A lot may contain no more than one shed and one greenhouse.
1135

1136 E. Sheds and greenhouses may be within the side yard of a parcel so long as the shed or greenhouse is
1137 screened. Screening is required for that portion of the wall of the shed or greenhouse that is visible
1138 from the right-of-way and the nearest adjoining residential property. A wall, fence, shrubs, or a
1139 combination thereof may be used to meet screening requirements as follows:
1140

1141 1. If an opaque wall or fence is used for screening, the wall or fence shall be six-feet in height. The
1142 wall or fence may be constructed of wood, vinyl, or a material that has the appearance of wood
1143 or vinyl, or the wall may be masonry, but not be unfinished concrete block. All other materials are
1144 prohibited. A screening wall with a continuous foundation may not encroach into any easement.
1145

1146 2. Alternatively, sheds or greenhouses may be screened with shrubs that meet the following
1147 requirements:
1148

1149 a. A row of shrubs planted along both sides of the shed and extend at least five feet beyond the
1150 walls of the shed or greenhouse.
1151

1152 b. All shrubs required for screening within this subsection shall be a minimum of 32 inches in
1153 height and be in at least a seven-gallon container size at the time of planting. All shrubs shall
1154 be planted no more three feet apart as measured on center.
1155

1156 c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be
1157 maintained in good condition as long as the shed requires screening pursuant to this
1158 subsection.
1159

1160 3. A shed or greenhouse that would be visible from the right-of-way or from the nearest adjoining
1161 property, but for an existing fence, wall, or landscaping that shields the shed or greenhouse is
1162 exempt from additional screening requirements. In the event the screening is removed or altered
1163 to cause the shed or greenhouse to be visible from the right-of-way or nearest adjoining property,
1164 the shed or greenhouse shall be screened in accordance with those requirements outlined above
1165 or moved to fully comply with this Section.

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4. On a double frontage lot, sheds or greenhouses shall be screened from view from rights-of-way and adjoining properties. See Diagram 5.1.12. Double frontage lot fence and accessory structure requirements.
5. On double frontage lots, sheds or greenhouses in the rear yard shall be setback to a distance equivalent to the front setback of any adjacent lots that are not double frontage lots.

Section. 5.2.14. Solar Photovoltaic (PV) Arrays.

A. General requirements.

1. Permitted accessory equipment. Rooftop photovoltaic solar systems shall be deemed permitted accessory equipment for all buildings in all zoning categories. Nothing contained in this chapter shall be deemed to prohibit the installation of rooftop photovoltaic solar systems on buildings containing legally nonconforming uses.
2. Maintenance. The photovoltaic system shall be properly maintained and be kept free from hazards, including faulty wiring, loose fastenings, or being maintained in a condition that is unsafe or detrimental to public health, safety, or general welfare.
3. Abandonment. Abandoned or unused freestanding solar energy systems not in use for a period of 18 months shall be removed at the owner’s expense.

B. Building-mounted PV systems.

1. Roof mounted:
 - a. Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof, for structures with gable, hip, or gambrel roofs and shall not extend higher than 10 feet above the surface of the roof when installed on flat or shed roof.
 - b. The solar collector surface and mounting devices shall be set back not less than one foot from the exterior perimeter of a roof for every one foot that the system extends above the roof surface on which the system is mounted. Solar energy systems that extend less than one foot above the roof surface shall be exempt from this provision.
2. Wall mounted or flush to a building or structure:
 - a. PV arrays are allowed on the walls or sides of any building or structure but shall not encroach into the required front yard setback and may not encroach into side and rear yard setback by more than three feet and shall not extend into or over an easement.
 - b. A minimum of nine feet vertical distance shall be maintained under the PV array where needed to provide adequate clearance for pedestrians.

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1212
1213 c. To the maximum extent possible, wall mounted PV arrays shall be designed as compatible to
1214 the structure and surface to which it is attached.

1215
1216 C. At-grade PV systems.

1217
1218 1. Applicability. The following regulations apply to any PV array that is erected or installed at-grade
1219 (ground level).

1220
1221 2. Exemptions. The restrictions of this Subsection with respect to height, location, and setbacks are
1222 not applicable to any accessory component to a freestanding outdoor lighting fixture, telephone
1223 pole, parking meter, or any other similar structure, as determined by the city.

1224
1225 3. Height. The maximum height of any at-grade PV array shall not exceed twelve feet.

1226
1227 4. Residential location. For PV arrays in or abutting residential zoning districts, the minimum
1228 setbacks are as follows:

1229
1230 a. PV arrays up to nine feet in height shall be setback at least seven and one-half feet from the
1231 rear and interior side property lines;

1232
1233 b. Arrays greater than nine feet in height shall be setback at least 10 feet from such property
1234 lines.

1235
1236 c. PV arrays are not allowed within the front setback of a residentially zoned property.

1237
1238 d. The area of the solar collector surface of freestanding solar energy systems shall not exceed
1239 five percent of the lot area.

1240
1241 5. Commercial location. For PV arrays in non-residential zoning districts and not adjacent to
1242 residentially zoned property, at-grade PV systems must meet all setback requirements for a
1243 structure within the zoning district.

1244
1245 6. The supporting framework for freestanding solar energy systems shall not include unfinished
1246 lumber.

1247
1248 **Section. 5.2.15. Swimming Pools.**

1249
1250 A. The construction of portable or permanent swimming pools or hot tubs is prohibited in the front yard
1251 of any residential lot, other than RE zoned parcels greater than 3 acres.

1252
1253 B. Pools, hot tubs, and pool decks in rear or side yards may not exceed a height of 30 inches above grade.

1254
1255 C. All swimming pools and enclosures constructed or erected on any parcel, other than accessory to a
1256 single-family detached or duplex residence, shall meet the minimum yard requirements specified for
1257 buildings or structures in the zoning district the construction occurs.

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- D. Portable swimming pools. Portable swimming pools are prohibited in the front or the side of any residential lot. Portable swimming pools capable of holding 24 inches in depth or more of water shall be anchored into the ground sufficiently to prohibit movement during a hurricane. Portable pools shall be enclosed by a fence or other protective material, or otherwise shall be covered, when not in use, by a protective cover so that a child cannot accidentally enter the pool. Drainage of pools so as to permit the water to run onto property of other people is prohibited. Wading or splash pools not capable of holding 12 inches or more of water are exempt from the provisions of this subsection.

1267 **Section. 5.2.16. Unattended donation bins.**

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Commercial developments may place a donation bin in the parking lot if the parking lot contains a minimum of 125 parking spaces. All donation bins must meet the following requirements:

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- A. Bins may not be in a required parking space or a drive aisle;
- B. Bins may not be placed in required landscape buffers and trees may not be removed in order to locate a bin;
- C. Bins shall be maintained in good condition and appearance with no structural damage, holes, or visible rust and shall be free of graffiti;
- D. Bins shall be locked or otherwise secured;
- E. Bins shall contain the following contact information in two-inch type visible from the front of each unattended donation box: the name, address, email, and phone number of the permittee and operator; and
- F. Bins shall be serviced and emptied as needed, but at least once per month, or within five business days of a request by the City. Boxes, garbage, and donation goods shall not be permitted to accumulate around unattended donation bins.

1290 **CHAPTER 3. Land Clearing, Filling, Excavation, and Construction Sites.**

1291

1292 **Section 5.3.1. Borrow pits; regulation of removal or extraction of dirt, soil, sand, rock, oil, gas, etc.;**
1293 **procedures.**

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- A. Removal or extraction of dirt, soil, and sand.
 - 1. All borrow pits from which dirt, sand or soil has been removed shall be completely enclosed by a fence or earth berm at least six feet in height.
 - 2. Prior to any such removal or excavation, the following shall be submitted to the Department of Community Development: drainage plans, aerial photo of the site, a plan for development of the total site when the removal is completed, the estimated costs of restoring the site to a safe and developable condition, and a deposit of funds or other financial instruments payable to the

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1304 City of Cape Coral is required equal to the estimated cost of restoring the site. The estimated
1305 cost for restoring the site shall include fence or berm removal, lake bank sloping and
1306 stabilization, site grading, seeding or mulching, drainage, and any other items that the
1307 Department, Hearing Examiner, or Council deems appropriate to ensure that the site is restored
1308 to a safe and usable condition. The plans shall be reviewed by the Hearing Examiner and written
1309 recommendation made to the Council prior to application for an excavation permit.

1310
1311 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner
1312 subject to final approval of the City Council.

1313
1314 B. Removal or extraction of rock, gravel, shell, aggregate, or marl.

1315
1316 1. All such excavations shall be sealed by fencing or grading or other device from general public
1317 access. All entrances to said excavation shall be fenced and locked during nonbusiness hours.

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1319 2. Prior to any such removal or excavation, the following shall be submitted to the Department of
1320 Community Development: drainage plans, aerial photograph of the site, a plan for development
1321 of the total site when the removal is completed, the estimated costs of restoring the site to a
1322 safe and developable condition, and a deposit of funds or other financial instruments payable
1323 to the City of Cape Coral is required equal to the estimated cost of restoring the site. The
1324 estimated cost for restoring the site shall include fence or berm removal, lake, bank sloping and
1325 stabilization, site grading, seeding or mulching, drainage, and any other items that the
1326 Department, HEX, or Council deems appropriate to ensure that the site is restored to a safe and
1327 usable condition. The plans shall be reviewed by the HEX and written recommendation made
1328 to the Council prior to application for an excavation permit.

1329
1330 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner
1331 subject to final approval by the City Council.

1332
1333 4. No excavation or extraction may be made with explosives without express permission of the
1334 Council. Excavation or borrow pit permits involving explosives must be renewed every 90 days.

1335
1336 C. Excavations, removal, or extraction for purposes of oil or gas exploration or production.

1337
1338 1. All such excavations, removals, or extractions shall be sealed by fencing or grading or other
1339 device from general public access. All entrances shall be fenced and locked during nonbusiness
1340 hours.

1341
1342 2. Prior to any such excavation, removal, or extraction the following shall be submitted to the
1343 Department of Community Development: drainage plans, aerial photograph of the site, a plan
1344 for development of the total site when the removal is completed, the estimated costs of
1345 restoring the site to a safe and developable condition, and a deposit of funds or other financial
1346 instruments payable to the City of Cape Coral is required equal to the estimated cost of
1347 restoring the site. The estimated cost for restoring the site shall include fence or berm removal,
1348 lake, bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other
1349 items that the Department, Hearing Examiner, or Council deems appropriate to ensure that the

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1350 site is restored to a safe and usable condition. The plans shall be reviewed by the HEX and
1351 written recommendation made to the Council prior to application for an excavation permit. No
1352 permit to drill a gas or oil well shall be issued unless City Council approves the application for
1353 such permit by resolution.

1354
1355 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner
1356 subject to final approval by the City Council.

1357
1358 4. No excavation or extraction may be made with explosives without express permission of the
1359 Council. Excavation permits involving explosives must be renewed every 90 days.

1360
1361 5. No person or entity may engage in any oil and gas exploration or production that utilizes well
1362 stimulation within the corporate boundaries of the City of Cape Coral or, consistent with F.S.
1363 §377.24(6), within the tidal waters of the state abutting or immediately adjacent to the
1364 corporate limits of the municipality, or within three miles of the City's corporate limits
1365 extending from the line of the mean high tide. As used in this section, the term "well
1366 stimulation" shall mean a well intervention, exploration, operation, or maintenance procedure
1367 performed by injecting fluid into a rock formation in order to increase production at an oil or
1368 gas well by improving the flow of hydrocarbons from the formation into the wellbore. Well
1369 stimulation does not include routine well cleaning that does not affect the integrity of the well
1370 or the formation.

1371
1372 D. Procedures.

1373
1374 1. The applicant shall meet with the Director and other city staff deemed appropriate by the
1375 Director prior to a public hearing with the Hearing Examiner to review staff concerns and to
1376 establish the basis for determining cost estimates as required.

1377
1378 2. All excavation or borrow pit requests shall be reviewed by the city staff, the Lee County Health
1379 Department, and the Hearing Examiner. After their review and recommendation, the City
1380 Council shall call for a public hearing on the application and shall determine whether or not said
1381 application shall be granted.

1382
1383 3. If the conceptual plan as presented by the applicant will require a zoning amendment for
1384 development, the applicant must prepare and submit a planned development project for the
1385 entire project prior to approval of the excavation.

1386
1387 4. If the excavation or borrow pit application is approved, the applicant may then apply for an
1388 excavation or borrow pit permit.

1389
1390 **Section. 5.3.2. Land Clearing, Filling, and, Excavation.**

1391
1392 A. Proposed alterations to ground elevation or vegetative cover not associated with an approved Site
1393 Development Plan, Final Subdivision Plan, or building permit shall be submitted to the Director with
1394 an application for a permit for Land Clearing and Fill containing the required plans and documentation.
1395 The director may require certification by a registered professional engineer that site improvements

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1396 have been made in accordance with permits issued pursuant to this Section. The following activities
1397 shall require a site improvement permit:

- 1398
- 1399 1. Clearing of trees and vegetation without disturbing the soil surface;
 - 1400
 - 1401 2. Clearing including stump removal and grubbing of top soils; and
 - 1402
 - 1403 3. Filling.
 - 1404

1405 B. Maintenance:

- 1406
- 1407 1. The applicant shall be responsible for the maintenance, repair, and replacement of all existing
1408 vegetation as may be required by the provisions of Chapter 8.
 - 1409
 - 1410 2. In buffer areas and areas outside the impervious cover, plant material shall be tended and
1411 maintained in a healthy growing condition and free from refuse and debris. Plant materials
1412 required by Chapter 8 of this article which is unhealthy, dying, or dead shall be replaced during
1413 the next planting season.
 - 1414

1415 C. Excavation involving more than surface contouring for erosion control is only permitted with approval
1416 of a Site Development Plan or Final Subdivision Plan.

1417

1418 D. In all districts, other than agriculture zoning, the city shall not permit any new borrow pits or mining
1419 activities, however, reshaping or restoration of existing borrow pits may only be permitted incidental
1420 to an approved Site Development Plan or Final Subdivision. Agriculturally zoned lands may propose
1421 new borrow pits as a Special Exception.

1422

1423 E. The following land clearing activities shall not require a permit:

- 1424
- 1425 1. Removal of invasive plants without disturbance of the soil; or
 - 1426
 - 1427 2. Land clearing for agricultural uses.
 - 1428

1429 **Section. 5.3.3. Construction Site Maintenance.**

1430

1431 Construction sites shall be maintained in a manner which is non-deleterious to nearby properties. The
1432 requirements of this Section set minimum standards for the operation of the project site to eliminate or
1433 minimize impacts to the site and to the neighborhood to include vehicle parking and loading area, traffic
1434 control, fencing, placement of materials, safety, neatness, and cleanliness.

1435

1436 A. Construction site management plan required. All development and building permit applications must
1437 be accompanied by a construction site management plan, unless waived by the building official or
1438 development services manager.

- 1439
- 1440 1. Parking plan shall include:
 - 1441

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- 1442 a. Location of on-site and adjacent unpaved portion of the right-of-way parking and the
1443 maximum number of vehicles that will be parked along the unpaved portion of the right-of-
1444 way.
1445
- 1446 b. Parking plan for worker vehicles and machinery on the site.
1447
- 1448 c. A single access with dimensions.
1449
- 1450 2. A temporary fence location, height, and type shall comply with the following:
1451
- 1452 a. For the purposes of construction site screening only, chain link fencing is permitted and shall
1453 be faced with a screen mesh.
1454
- 1455 b. A maximum height of six feet in residential zoned properties and eight feet in commercially
1456 zoned properties.
1457
- 1458 c. Fencing may not be required in agriculture or preservation zoned properties, upon a
1459 determination by the Director.
1460
- 1461 3. Construction trailers, loading and unloading areas, and material storage areas shall not be stored
1462 in areas intended for stormwater retention or rain gardens.
1463
- 1464 4. Traffic control plans shall include:
1465
- 1466 a. Access points with dimensions;
1467
- 1468 b. Area to be stabilized and a written plan on staging of construction related traffic including
1469 adequate parking (both on and off-site); and
1470
- 1471 c. Plan for delivery of materials.
1472
- 1473 B. Approval of plan and waivers. The building official or development services manager shall review,
1474 approve, or deny the construction site management plan and is authorized to grant waivers from
1475 submittal requirements:
1476
- 1477 1. If the requirement is unrelated to proposed development;
1478
- 1479 2. If the impact of the proposed development is negligible in that submittal requirement area; or
1480
- 1481 3. If unusual site conditions do not allow full compliance with this Section.
1482

CHAPTER 4. MARINE IMPROVEMENTS.

Section. 5.4.1. Purpose and Intent

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1487 In order to allow all waterfront property the same ability to utilize and access adjacent waterways, the
1488 development of docks, wharves, mooring piles, and watercraft moorings must be accomplished in a
1489 standard and unified manner. Boat slips and docks may be constructed by the owner of a waterfront lot,
1490 with adequate water frontage, where a principal building exists.

1491

1492 **Section. 5.4.2. General Requirements.**

1493

1494 A. An applicant who disagrees with the measurement of the calculated waterway width by the city's
1495 Geographic Information System (GIS) may submit a survey of the waterway width, prepared by a
1496 professional surveyor licensed in the state of Florida, to support the applicant's contention that the
1497 calculated waterway width is inaccurate.

1498

1499 B. No dock or piling shall be permitted that interferes with the right to navigate safely within the
1500 waterways of the city. In no event shall the navigable area be reduced to less than 50% of the
1501 calculated waterway width.

1502

1503 C. The elevation of pilings shall not exceed 10 feet above the seawall cap or, if no seawall exists, 13 feet
1504 above mean water level.

1505

1506 D. The elevation of the decking of a marine improvement shall not exceed two feet above the seawall
1507 cap, or if no seawall exists, five feet above mean water level. For marine improvements in the
1508 Caloosahatchee River, and for marine improvements in canals within 300 feet of the platted shoreline
1509 of the Caloosahatchee River, the elevation of the decking shall not exceed four feet above the seawall
1510 cap, or if no seawall exists, seven feet above mean water level.

1511

1512 E. All pilings or mooring posts shall be offset a minimum of two and one-half feet from any storm drain
1513 outfall pipe. Such measurement shall be made from the outside edge of the outfall pipe to the center
1514 of the piling or mooring post.

1515

1516 F. All docks permitted under this Section that project from a parcel with a seawall shall have a ladder
1517 extending from the dock into the waterway. No ladder extending from a dock into a waterway shall
1518 be made of wood.

1519

1520 G. The property owner shall be solely responsible for compliance with all applicable provisions of the Lee
1521 County Manatee Protection Plan.

1522

1523 H. Prior to the final inspection by the City, the owner shall submit a final signed and sealed survey
1524 showing that all construction is in compliance with the requirements of this Code.

1525

1526 **Section. 5.4.3. Dimensional Standards**

1527

1528 A. Protrusions into waterway.

1529

1530 1. Marine improvements may extend 25% of the calculated waterway width or 40 feet, whichever
1531 is less, as measured from the water frontage line, provided the marine improvements are setback
1532 12 feet from each extended side property line.

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2. Marine improvements which extend six feet or less into a waterway such as captains' walks, as measured from the water frontage line, may extend the full length of the water frontage of the parcel.
 3. Marine improvements in the Caloosahatchee River shall be subject to state and federal regulations.
 4. Marine improvements for outside corner parcels, excluding a "T" intersection, of two canals, may extend into the waterways as follows:
 - a. Extend the two waterfrontage lines (Diagram 5.4.3.A.) of the property to a point equal to 25% of the canal width or 40 feet, whichever is less.
 - b. Then, in each intersecting canal, the extended waterfrontage lines shall run parallel to the waterfrontage lines and shall be setback 12 feet from the extended side property line.
 - c. The area formed by the aforesaid lines and area of intersection, shall be the area permitted for marine improvements.
 5. Marine improvements for end parcels. Parcels at or adjacent to canal ends or parcels on lakes and basins (excluding outside corner parcels) are subject to the following:
 - a. Except for parcels governed by Section 5.4.3.A, end parcels shall be permitted to have marine improvements projecting into the waterway up to a maximum of 30 feet. Adjacent parcels shall be permitted to have marine improvements projecting into the waterway up to a maximum of 30 feet or 25% of the calculated canal width, whichever is less.
 - b. With respect to end parcels with at least 80 feet of water frontage line, no part of a marine improvement which extends more than six feet in to a canal shall be located less than 12 feet from the ends of the water frontage line of the parcel. See Diagrams 5.4.3.A. & J
 - c. With respect to end parcels with more than 40 feet, but less than 80 feet, of water frontage line, any part of a marine improvement which extends more than six feet into a canal shall be set back from the ends of the water frontage line of the parcel in accordance with the following formula: $(\text{Parcel Waterfrontage} - 40 \text{ feet}) \times 0.3$. The foregoing restrictions shall apply to marine improvements projecting from adjacent parcels (based on the length of their waterfrontage lines) in the same manner as end parcels, except that on the side of the adjacent parcel that abuts an end parcel, a marine improvement may be built up to the side boundary of the adjacent parcel's marine improvement area, as determined pursuant to paragraph 10.b below. See Diagram 5.4.3.H
 - d. With respect to end and adjacent parcels with 40 feet or less of water frontage, no marine improvement shall extend more than six feet into the canal except in accordance with the following: $(\text{Parcel Waterfrontage} - 40 \text{ feet}) \times 0.3$. The foregoing restrictions shall apply to marine improvements projecting from adjacent parcels (based on the length of their

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1579 waterfrontage lines) in the same manner as end parcels, except that on the side of the
1580 adjacent parcel that abuts an end parcel, a marine improvement may be built up to the side
1581 boundary of the adjacent parcel's marine improvement area, as determined pursuant to
1582 paragraph 10.b below.

1583
1584 e. With respect to end and adjacent parcels with 40 feet or less of water frontage, no marine
1585 improvement shall extend more than six feet into the canal except in accordance with the
1586 following:

1587
1588 i. Such a parcel may have either a platform dock not more than ten feet wide and extending
1589 not more than 16 feet into the canal or not more than two finger piers (with or without a
1590 boat lift) that together total no more than six feet in deck width and that extend not more
1591 than 30 feet into the canal.

1592 ii. No marine improvement that projects more than six feet into the canal shall extend more
1593 than ten feet either side of the center point of the water frontage line of the parcel.
1594 Furthermore, no marine improvement shall extend beyond the ends of the water
1595 frontage line of the parcel. All marine improvements shall be centered on the centerline
1596 of the waterfront parcel's marine improvement area. See Diagram 5.4.3.F

1597
1598 7. When a parcel is at the corner of a waterway so as to include water frontage (all under the same
1599 ownership) on both the side and end of a waterway, the property owner may install or erect a
1600 marine improvement that extends from the side of the waterway to a maximum distance of 25%
1601 of the calculated width of the waterway or 30 feet, whichever is less, and from the end of the
1602 waterway a distance of 30 feet into the waterway.

1603
1604 8. Except as otherwise provided herein for joint marine improvements, no marine vessel (or any part
1605 thereof) when secured in any way to a marine improvement projecting from an end parcel, an
1606 adjacent parcel, or a parcel on a lake or basin (excluding outside corner parcels) shall extend
1607 beyond the boundaries of the marine improvement area of the parcel unless prior written consent
1608 of the affected property owner is obtained. Such consent shall be revocable by the affected
1609 property owner and shall automatically terminate in the event the ownership of the affected
1610 property changes. In the event ownership changes, the written consent of the new owner must
1611 be obtained if the marine vessel is to continue to extend beyond the ends of the water frontage
1612 of the parcel.

1613
1614 9. Marine improvements that do not project more than six feet into a waterway as measured from
1615 the water frontage line may extend the full length of the water frontage of the parcel. However,
1616 where the end of a parcel water frontage line abuts the water frontage line of another parcel, the
1617 angle at which such two water frontage line ends meet shall be bisected and apportioned equally
1618 between the two waterfront parcels. In that event, no marine improvement shall extend beyond
1619 the bisector of the angle.

1620
1621 10. No marine improvement that projects more than six feet from the water frontage line of the
1622 property shall be permitted to be outside of the marine improvement area for a waterfront parcel.
1623 The boundaries and dimensions of the marine improvement area shall be determined as follows:
1624

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- 1625 a. End parcels.
1626
1627 i. The access width of the waterway shall be calculated by subtracting from the calculated
1628 waterway width twice the maximum distance that a marine improvement along one side
1629 of the waterway could lawfully project as determined pursuant to Section 5.4.4.A.1.
1630 ii. The waterway access ratio shall be calculated by dividing the waterway access width by
1631 the calculated width of the waterway.
1632 iii. The waterway center point (WCP) is a point on the centerline of the canal 30 feet from
1633 the water's end. All marine improvement area lines and intersections are calculated and
1634 plotted from the WCP. See Diagram 5.4.3.B.
1635 iv. Offset points for the parcel are determined as follows: If the parcel has 80 feet or more
1636 of water frontage line, then the offset points shall be located 12 feet from each end of
1637 the water frontage line of the parcel. If the parcel has more than 40 feet, but less than 80
1638 feet of water frontage line, then the offset points shall be located in from the ends of the
1639 water frontage line the distance (in feet) resulting from the following formula: (Feet of
1640 Water Frontage Line - 40) x 0.3. If the parcel has 40 feet or less of water frontage line,
1641 then the ends of the parcel's water frontage line shall be the offset points. See Diagram
1642 5.4.3.C.
1643 v. From the WCP, plot a line having the same relationship to the WCP as the water frontage
1644 line has to the center of the canal end, but with all distances reduced in size by the
1645 waterway access ratio. This line is the offset line for the parcel. See Diagram 5.4.3.D.
1646 vi. The marine improvement area is that area enclosed by the water frontage line, the offset
1647 line, and lines connecting the ends of the offset line to corresponding offset points. See
1648 Diagram 5.4.3.E.
1649
1650 b. Adjacent parcels. The marine improvement area for an adjacent parcel shall be calculated in
1651 the same manner as that for an end parcel except as follows:
1652
1653 i. Adjacent parcel that abuts an end parcel with 40 feet or less of water frontage line. On
1654 the side of the adjacent parcel that abuts an end parcel with 40 feet or less of water
1655 frontage line, the side boundary of the marine improvement area shall constitute the side
1656 boundary of such adjacent parcel's marine improvement area. See Diagram 5.4.3.I. & J.
1657 ii. Adjacent parcel that abuts an end parcel with more than 40 feet of water frontage line.
1658 On the side of the adjacent parcel that abuts an end parcel with more than 40 feet of
1659 water frontage line, the side boundary of the adjacent parcel's marine improvement area
1660 shall be determined by drawing a line from the end of the subject adjacent parcel's water
1661 frontage line (on the same side as the subject end parcel) to the nearest terminus point
1662 of the subject end parcel's offset line and passing through the adjacent parcel's offset line.
1663 The side boundary shall be that portion of the aforesaid line between the end of the
1664 adjacent parcel water frontage line and the parcel's offset line. However, in no event shall
1665 the side boundary extend beyond the bisector of the angle formed where the adjacent
1666 parcel's water frontage line abuts the end parcel's water frontage line. The bisector shall
1667 be extended into the waterway the maximum distance a marine improvement could
1668 lawfully project within the marine improvement area. See Diagram 5.4.3.G.
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- c. Parcels on lakes and basins (excluding outside corner parcels). A waterfront parcel shall be deemed to be on a lake or a basin if the parcel abuts a body of water identified as a lake or a basin on the officially adopted Future Land Use Map of the City of Cape Coral. Except for outside corner parcels, all waterfront parcels on lakes or basins shall be categorized as corner parcels, adjacent parcels, or end parcels. A corner lake or basin parcel shall be a parcel that either touches or is on both sides of an interior corner of a lake or basin. In other words, a corner lake or basin parcel may be one with a water frontage line that is V-shaped because it physically runs along the edge of the lake or basin, turns at the corner, and continues along the edge of the lake or basin, or it may be a parcel the water frontage line of which ends at a corner of the lake or basin where another side of the lake or basin begins, or it may be a parcel that is angled in such a way that each end of its water frontage line touches a different side of the lake or basin. Also, an adjacent lake or basin parcel shall be a parcel that is on a lake or basin and that abuts at least one corner parcel. All other parcels on lakes or basins and that are neither corner parcels or adjacent parcels shall be treated as end parcels.

 - d. The marine improvement area for parcels on lakes or basins shall be calculated as follows:
 - i. For an end parcel, the side of the lake or basin upon which the parcel is physically located shall be deemed to be the end of the lake or basin and the sides of the lake or basin shall be deemed to be the sides of the lake or basin running roughly perpendicular to the end of the lake or basin and to the left and to the right of the parcel (when facing the lake or basin). For purposes of this Section, the waterway access ratio for all end lake and basin parcels shall be one. In addition, the WCP for end lake or basin parcels shall be 40 feet into the lake or basin as measured perpendicularly to the lake or basin end from the center of the lake or basin end. All marine improvement area lines and intersections are calculated and plotted from the WCP. The remainder of the marine improvement area boundary calculations for end lake or basin parcels shall be the same as those performed with respect to canal end parcels.
 - ii. For corner lake or basin parcels, the configuration of the marine improvement area shall be determined by the physical configuration of the particular corner parcel. With respect to a corner parcel the water frontage line of which lies entirely on one side or end of a lake or basin, but terminates at the corner of the lake or basin where the other side of the lake or basin begins, the marine improvement area shall be calculated in the same manner as for end lake or basin parcels except that the side boundary of such marine improvement area (on the side where the corner of the lake or basin is located) shall be formed by a line bisecting the angle of such corner and extending to the offset line of the marine improvement area. See Diagram 5.4.3.K.
 - iii. With respect to a corner parcel that is angled so that each end of its water frontage line is on a different side of the lake or basin or for a corner parcel with a V-shaped water frontage line, the marine improvement area configuration shall be determined as follows: First, calculate the waterway access ratio for each side of the lake or basin in the same manner as the waterway access ratio for a canal is determined. Then measure the distance from the center of each side of the lake or basin touched by the corner property to the end of the water frontage line, or to the offset point, if any, on such side of the lake or basin. Multiply each of the aforesaid distances by the waterway access ratio for the relative side of the lake or basin to obtain the length of the waterway line for each side of

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1716 the lake or basin. Plot the waterway line from the center of the side of the lake or basin
1717 for which it was calculated to a point that is 30 feet waterward from the water frontage
1718 line. The offset line for a corner parcel marine improvement area is formed by connecting
1719 the two foregoing points. The marine improvement area for the corner parcel is that area
1720 enclosed by the parcel water frontage line, the offset line, and lines connecting the ends
1721 of the offset line to the corresponding offset points for the parcel, if any, or to the ends
1722 of the water frontage line. See Diagrams 5.4.3.L & M.

1723 iv. For adjacent lake or basin parcels, the marine improvement area shall be calculated in the
1724 same manner as that for end lake or basin parcels except as follows: With respect to an
1725 adjacent lake or basin parcel that abuts a corner parcel with 40 feet or less of water
1726 frontage line, the side boundary of the corner parcel marine improvement area (on the
1727 side where it abuts the adjacent parcel) shall form the side boundary of the adjacent
1728 parcel marine improvement area. With respect to an adjacent lake or basin parcel that
1729 abuts a corner parcel with more than 40 feet of water frontage line, the side boundary of
1730 the adjacent parcel (on the same side as the subject corner parcel) shall be determined
1731 by drawing a line from the end of the adjacent parcel water frontage line to the nearest
1732 terminus point of the subject corner parcel offset line and passing through the adjacent
1733 parcel offset line. The side boundary of the adjacent parcel shall be that portion of the
1734 aforesaid line between the end of the adjacent parcel water frontage line and such
1735 parcel's offset line. See Diagram 5.4.3.M

1736 v. Owners of waterfront parcels on a lake or basin aggrieved by the interpretation or
1737 application of this Section to such parcel due to the physical configuration of the
1738 particular lake or basin, then the Director may interpret and apply the provisions of this
1739 Section so as to alleviate the hardship resulting from the configuration of the lake or basin
1740 and so as to enable the waterfront parcel a reasonable marine improvement area.

1741
1742 6. In the event a significant portion of a waterway is not developable on one side due to ecological
1743 or other constraints, a marine improvement on the opposite side of the unnavigable portion
1744 shall be permitted to project into the waterway up to 50% of the calculated waterway width or
1745 40 feet, whichever is less, as measured from the waterfrontage line. See Diagram 5.4.3.N
1746

1747 7. No marine vessel (or any part thereof) when secured in any way to a marine improvement shall
1748 extend beyond the ends of the water frontage of the parcel from which the marine
1749 improvement projects.
1750

1751 8. All properties adjacent to bridges shall be reviewed individually by the city to determine what,
1752 if any, marine improvement may project from that property. Factors to be considered in making
1753 this determination include, but are not limited to, public safety and the impact of a planned
1754 marine improvement on navigability.
1755

1756 B. Maximum dock surface area.
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1758 1. For parcels with more than 40 feet of waterfrontage, the maximum deck surface area
1759 coverage shall be calculated as follows: the linear feet of water frontage of the parcel minus
1760 20 feet times one-half times the linear feet of the maximum projection into the waterway
1761 (25% of the calculated width of the waterway or 40 feet, whichever is less).

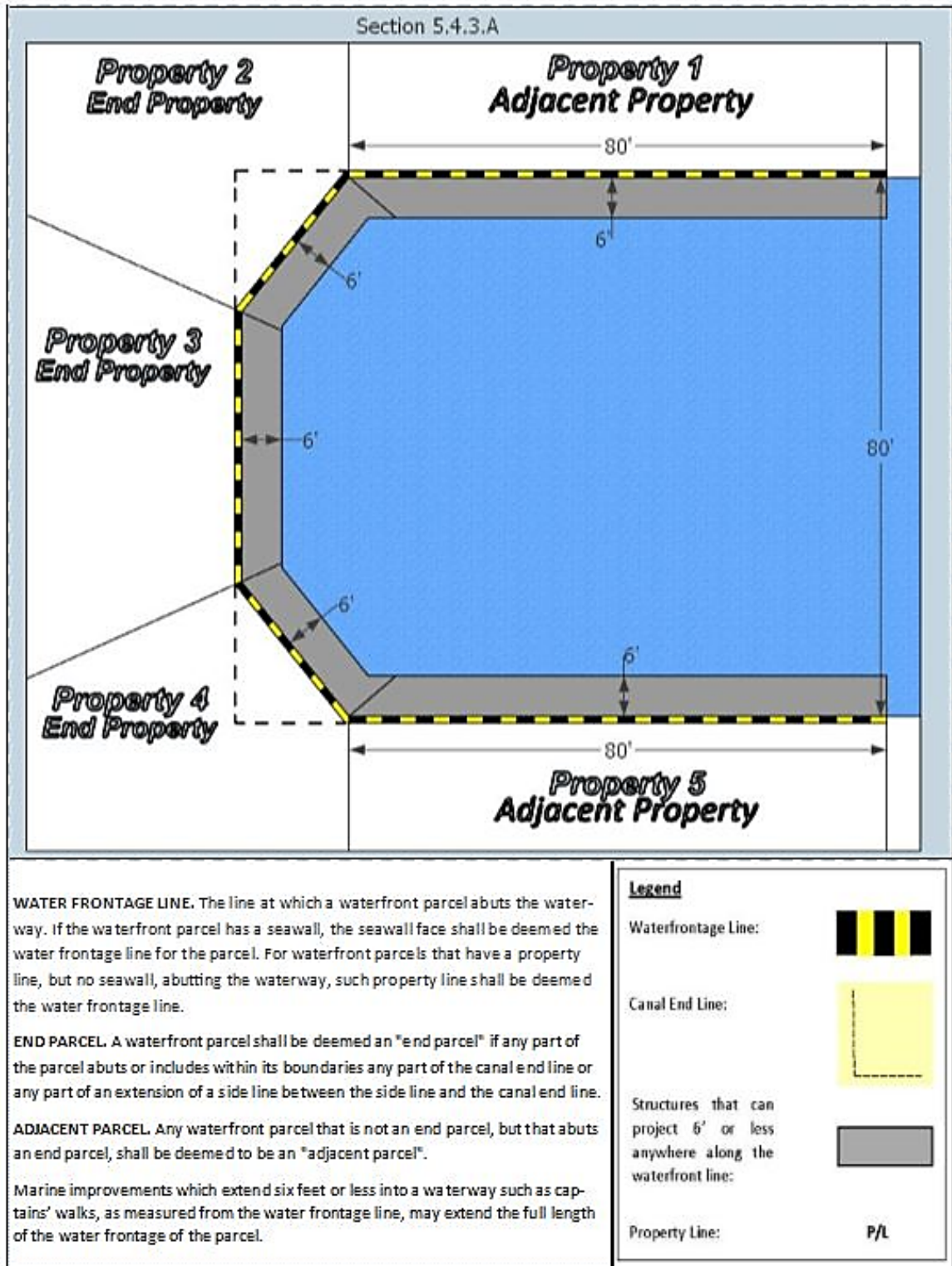
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- 1762 2. For parcels with 40 feet or less of waterfrontage, the maximum deck surface area shall be
1763 calculated as follows: the linear feet of waterfrontage of the parcel times one-quarter times
1764 the linear feet of the maximum projection into the waterway (25% of the calculated width of
1765 the waterway or 40 feet, whichever is less).

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1767 **Section 5.4.3. Graphics**

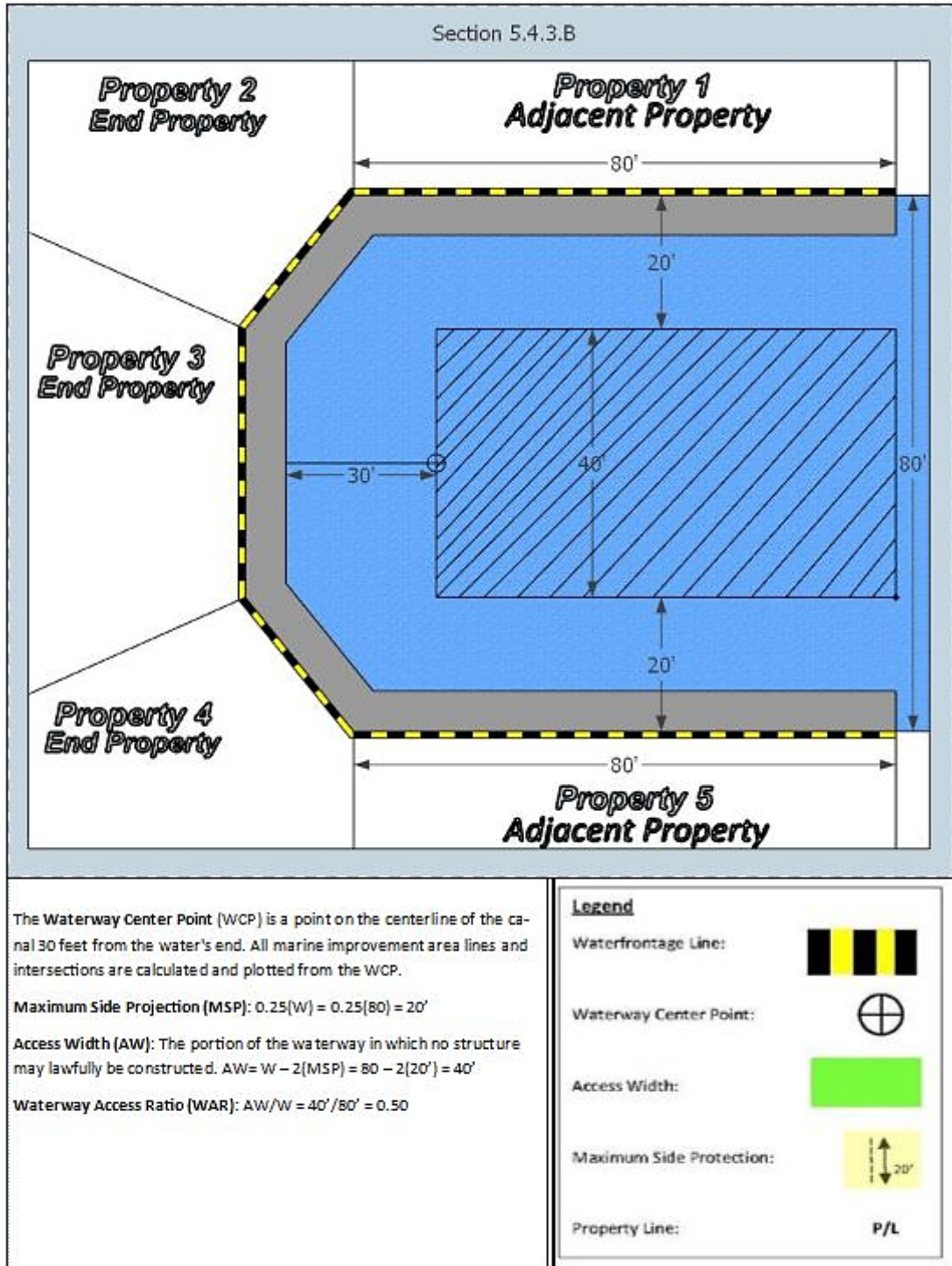
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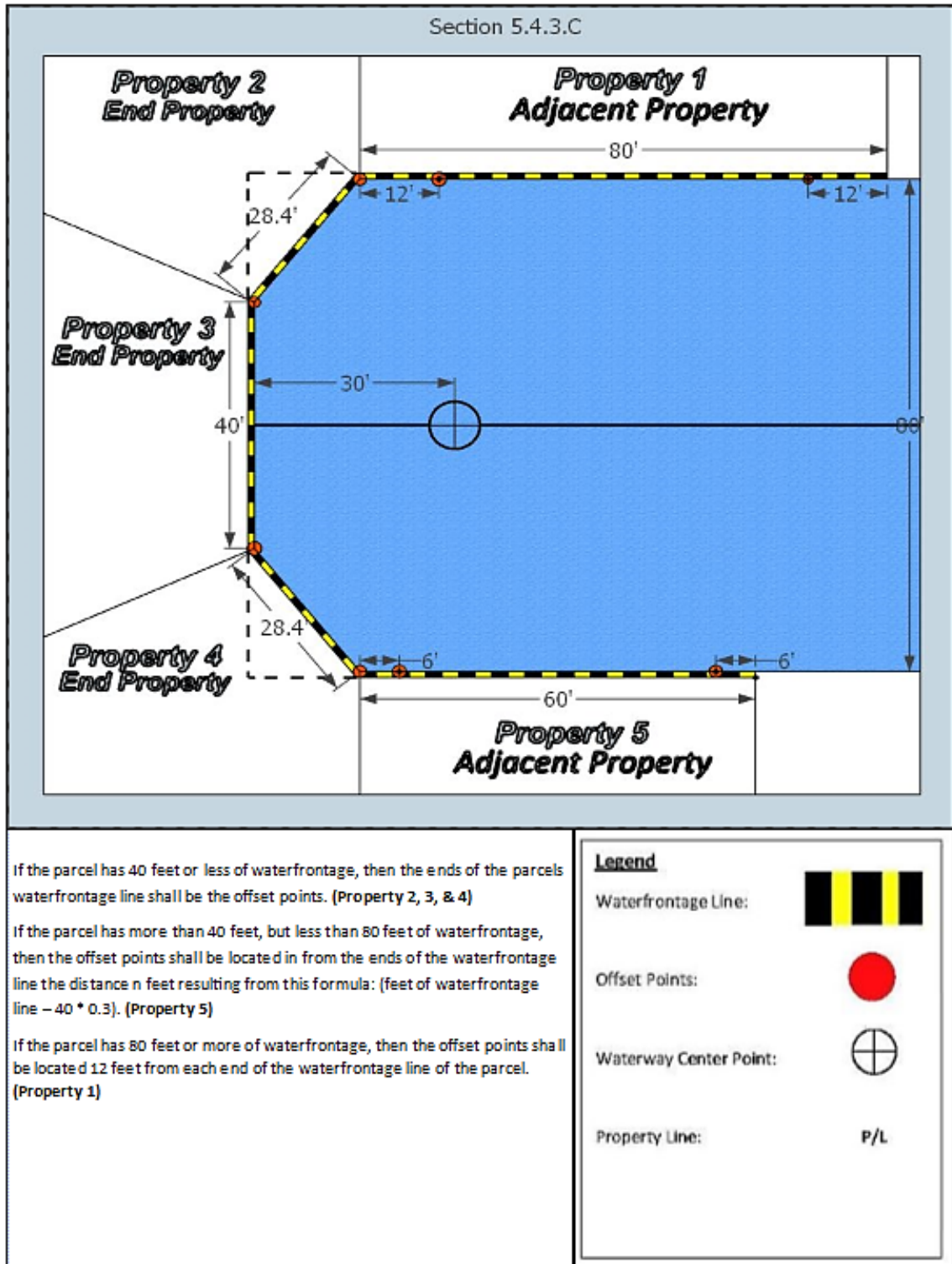
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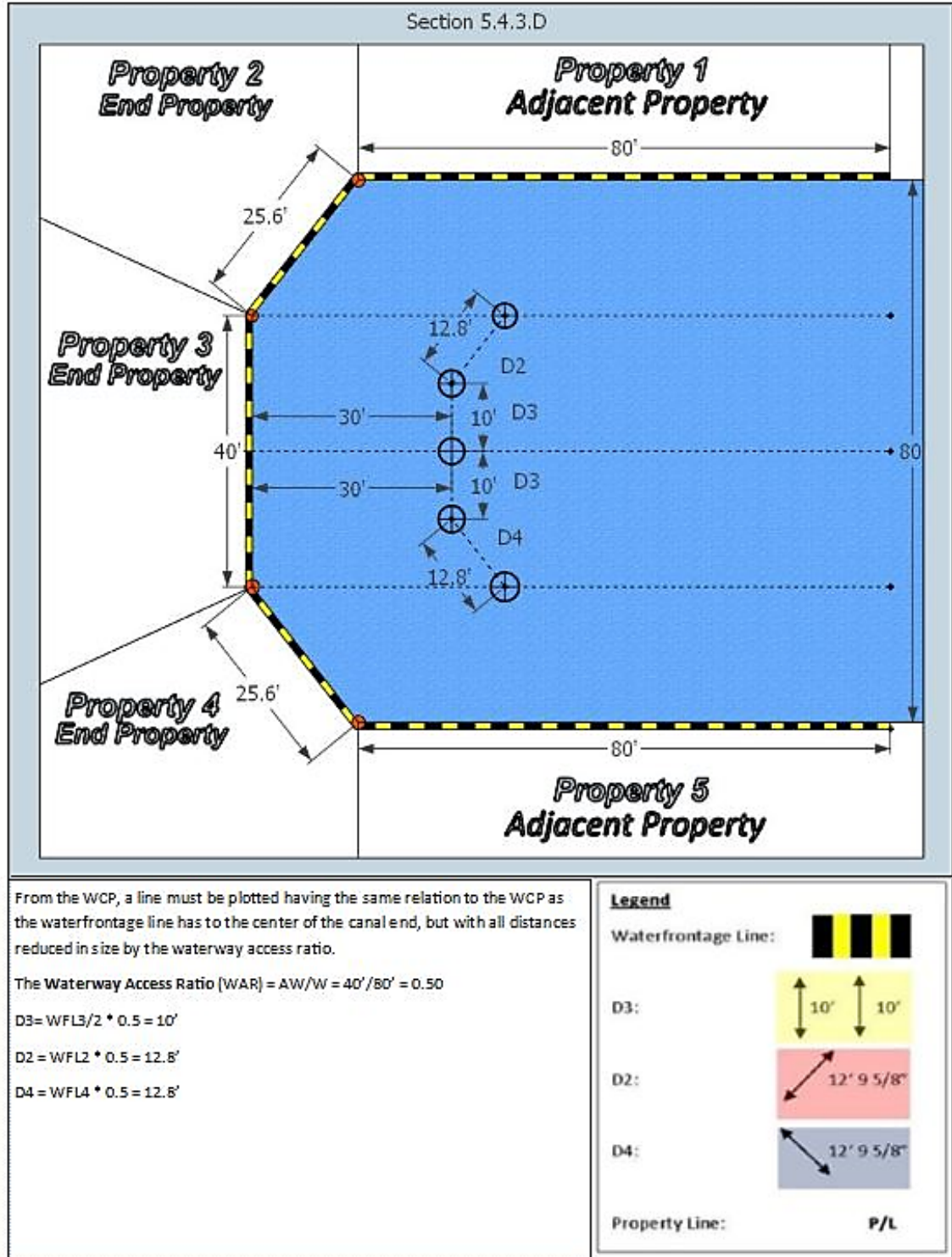
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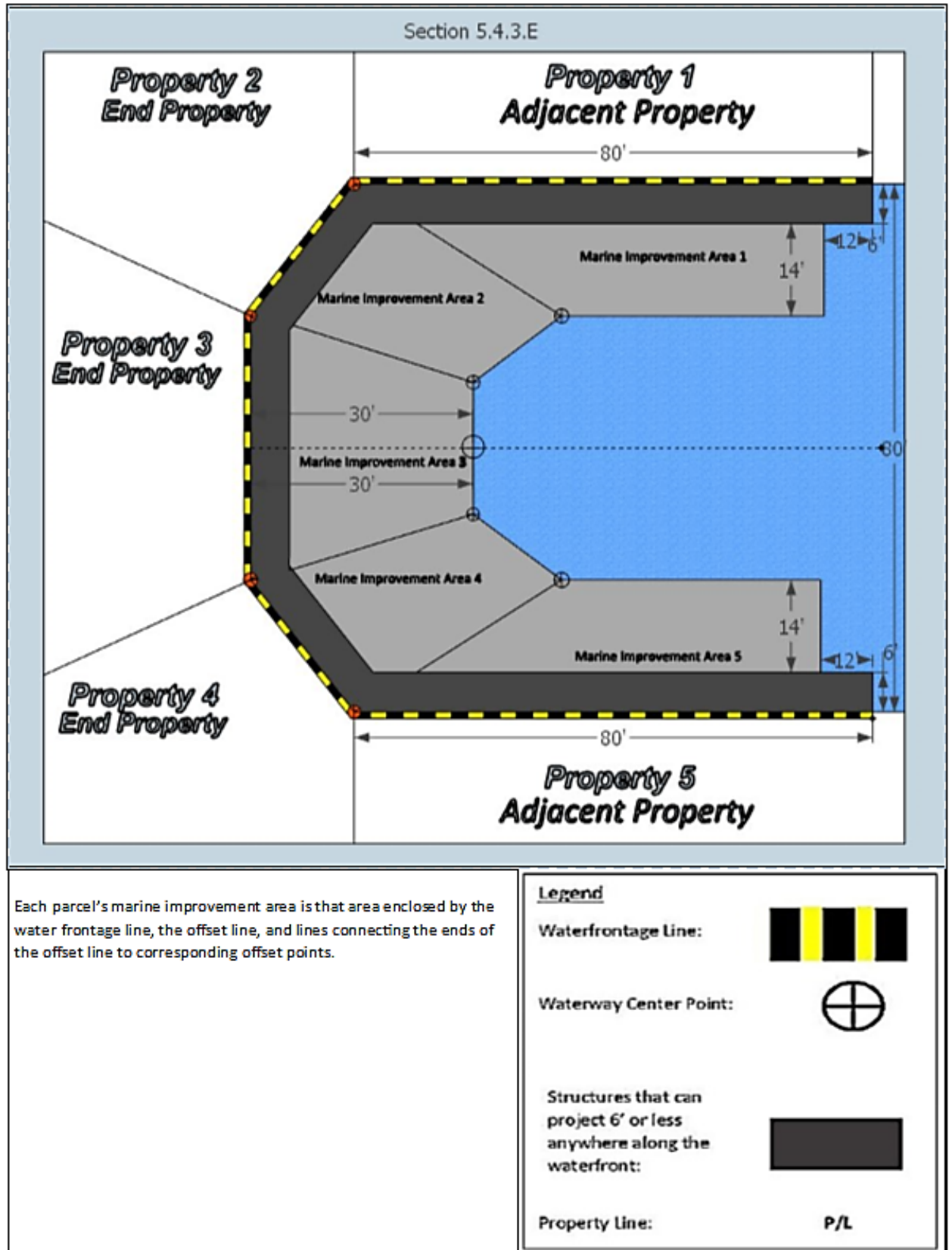
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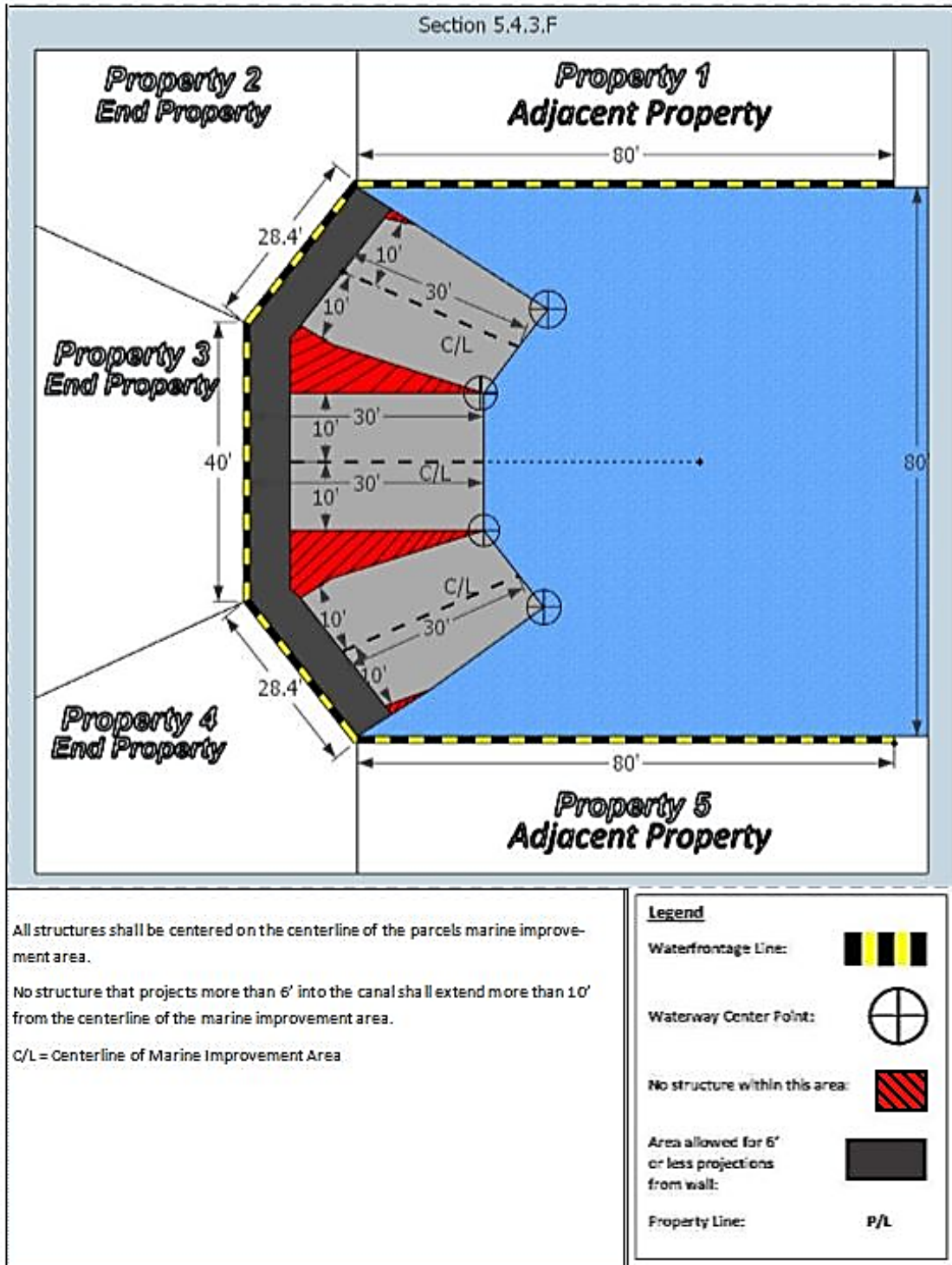
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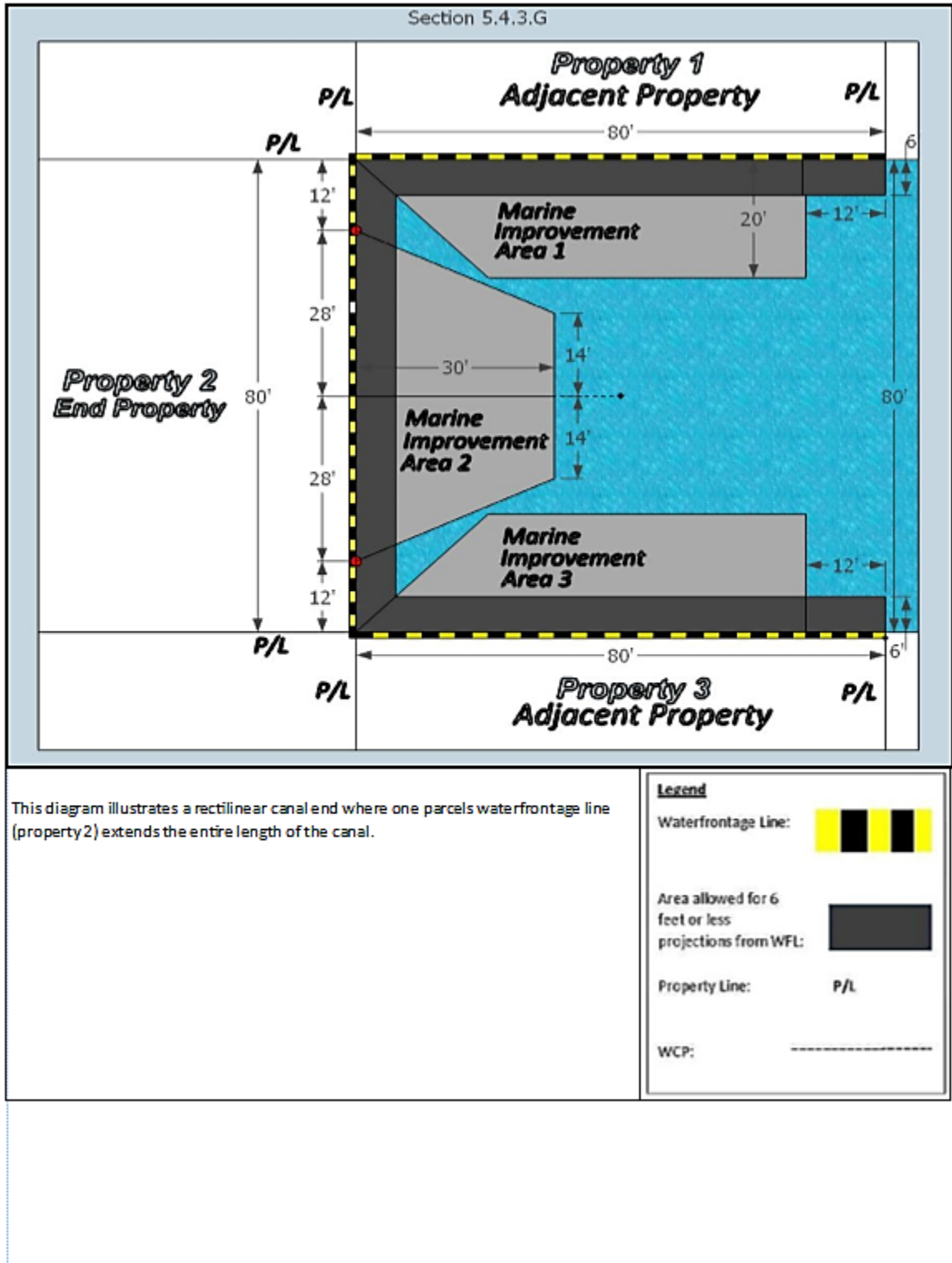
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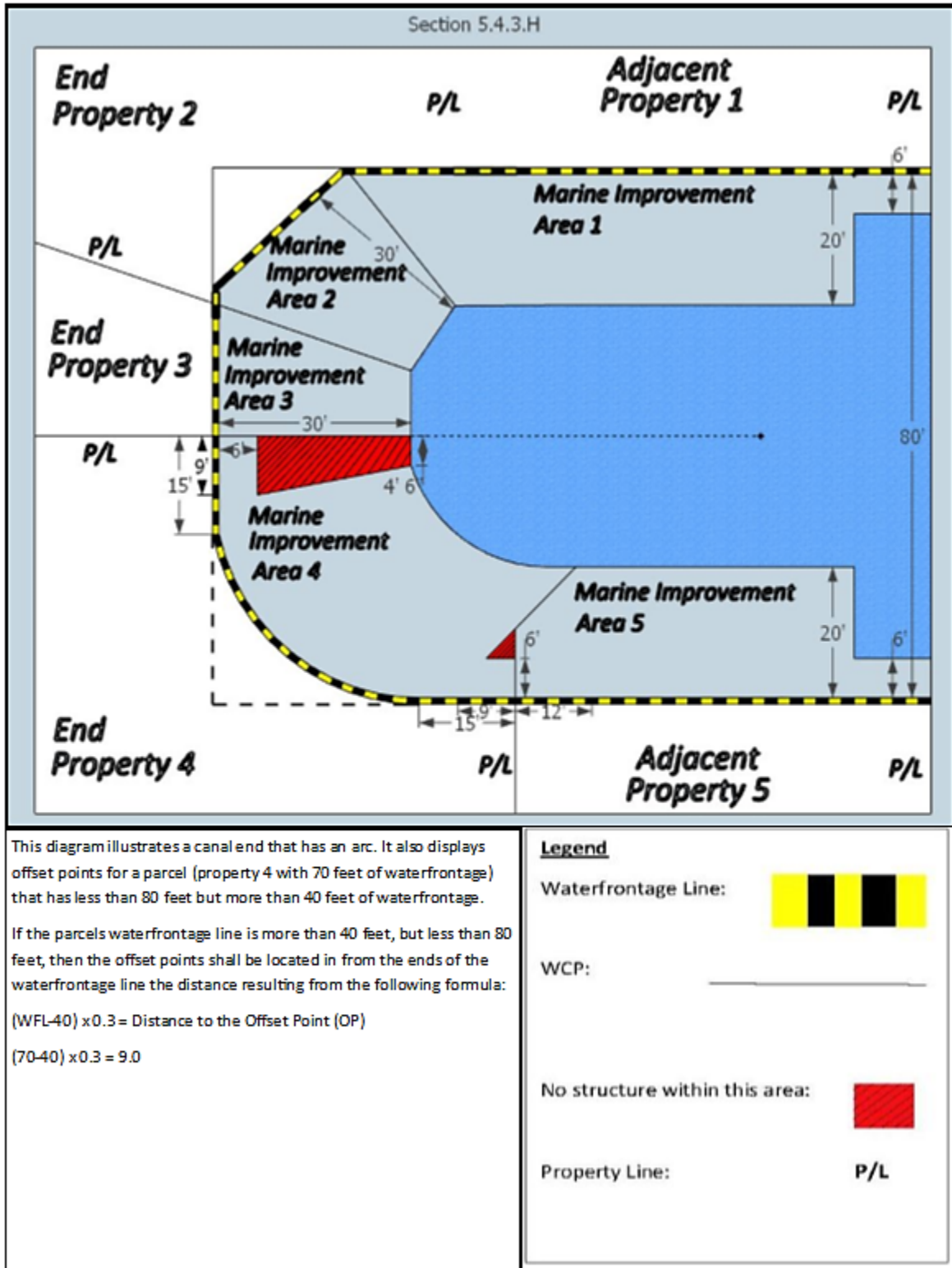
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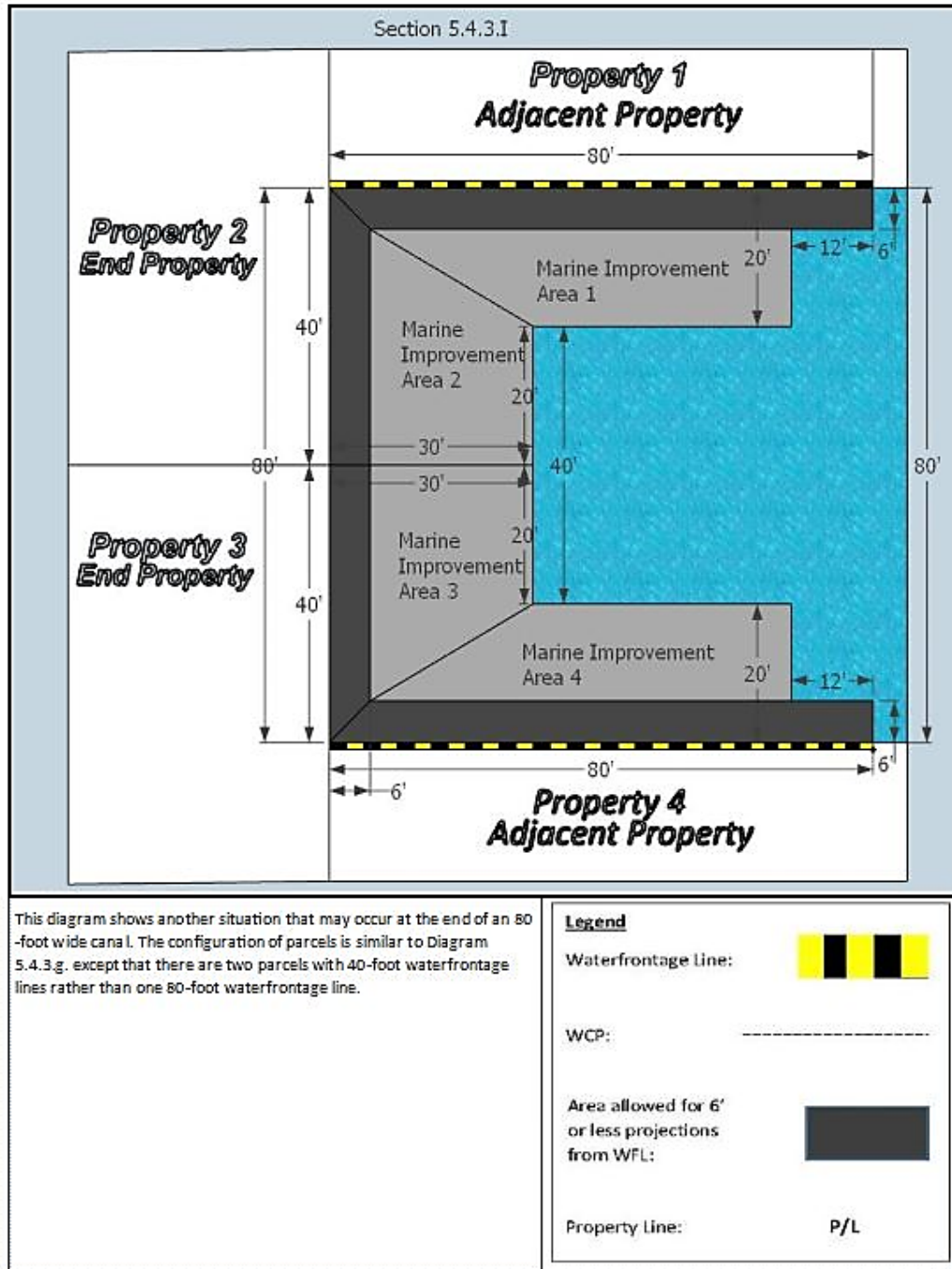
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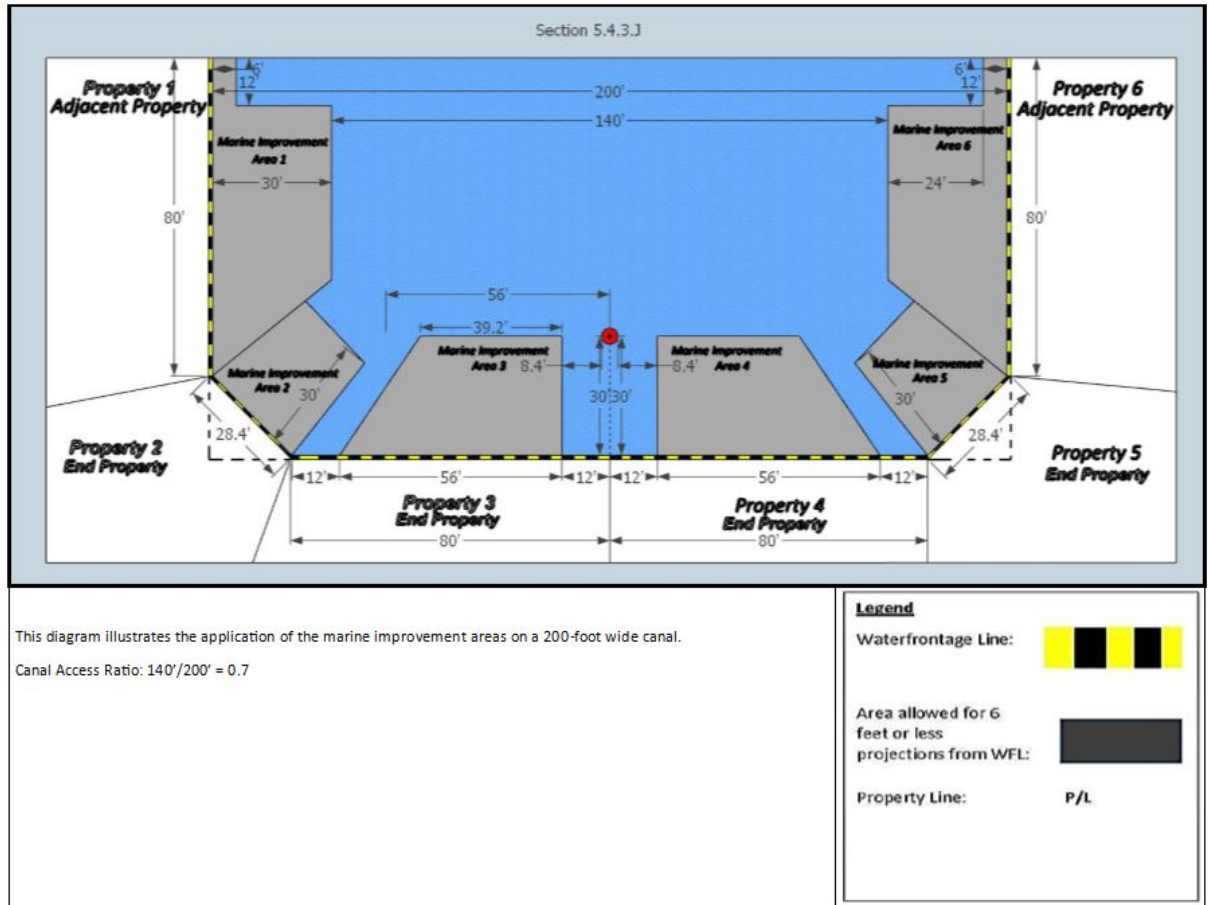
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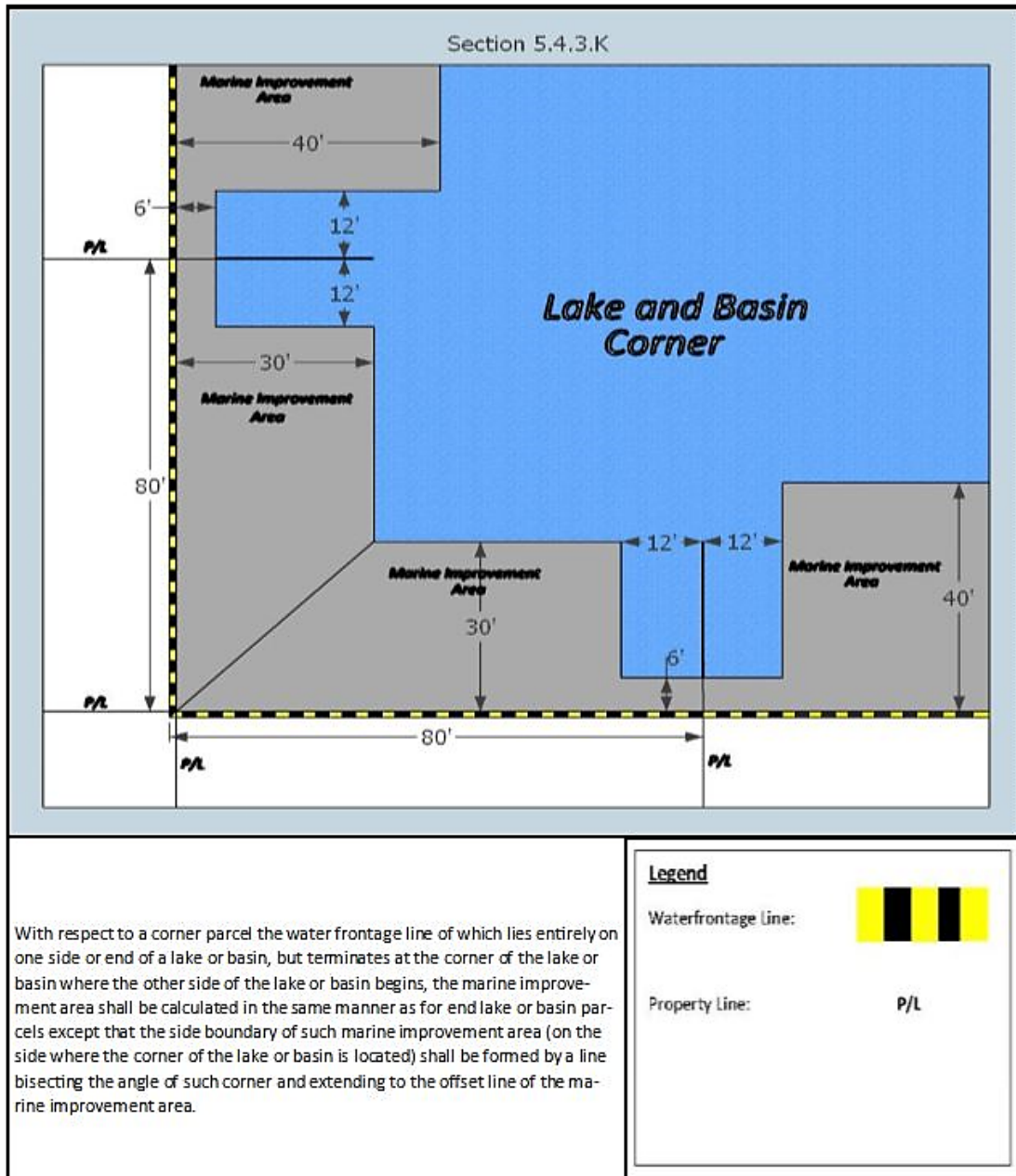
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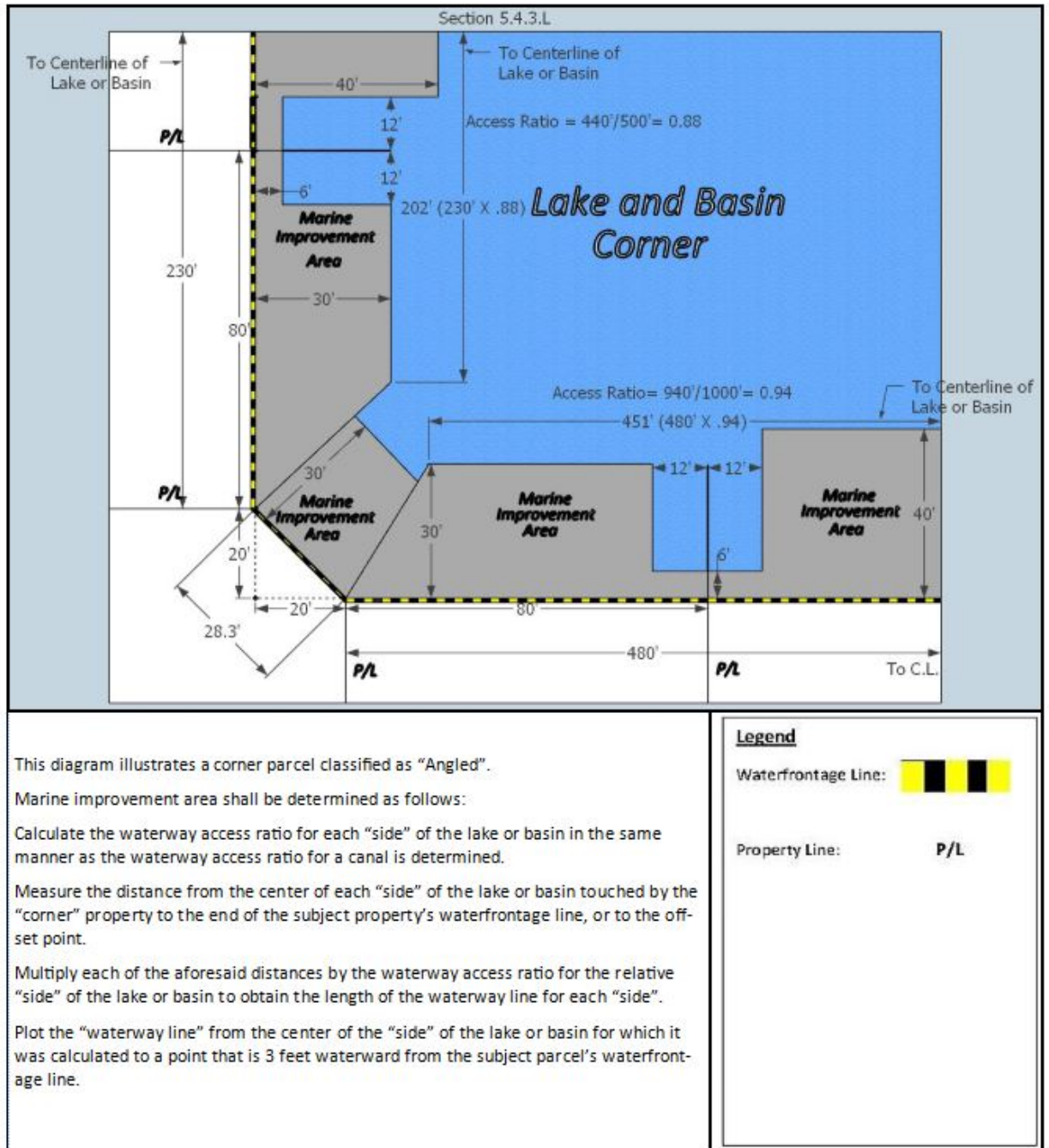
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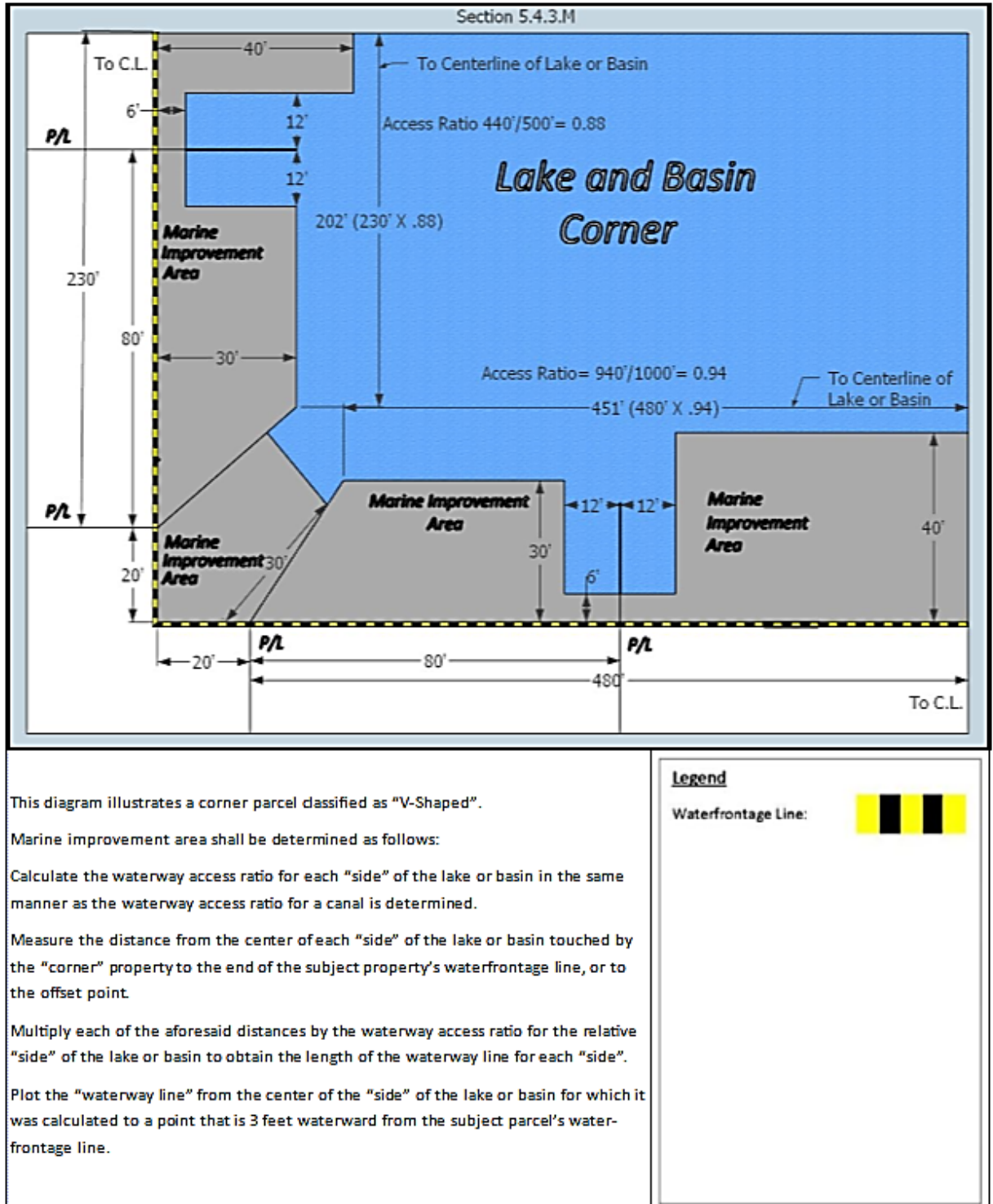
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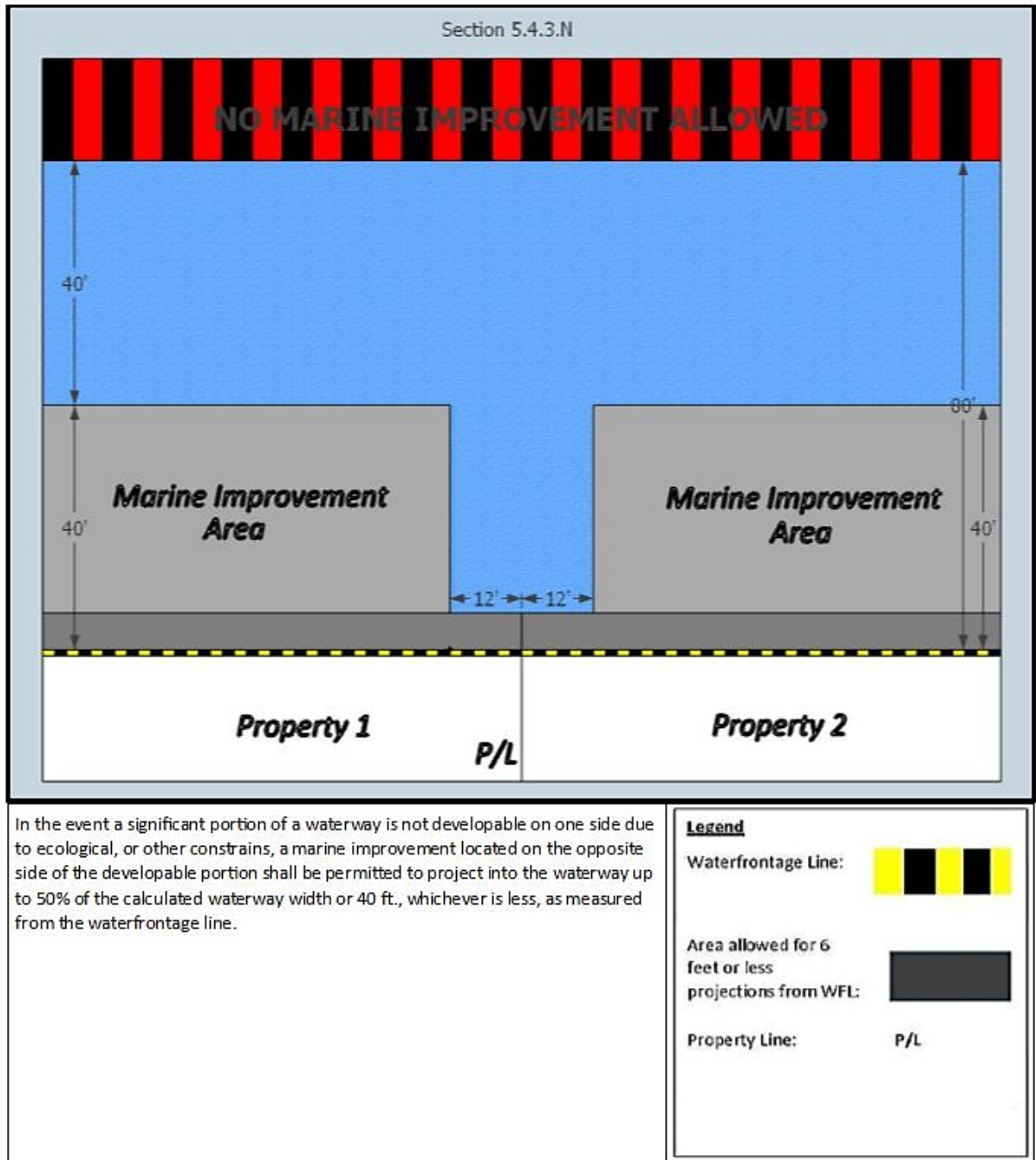
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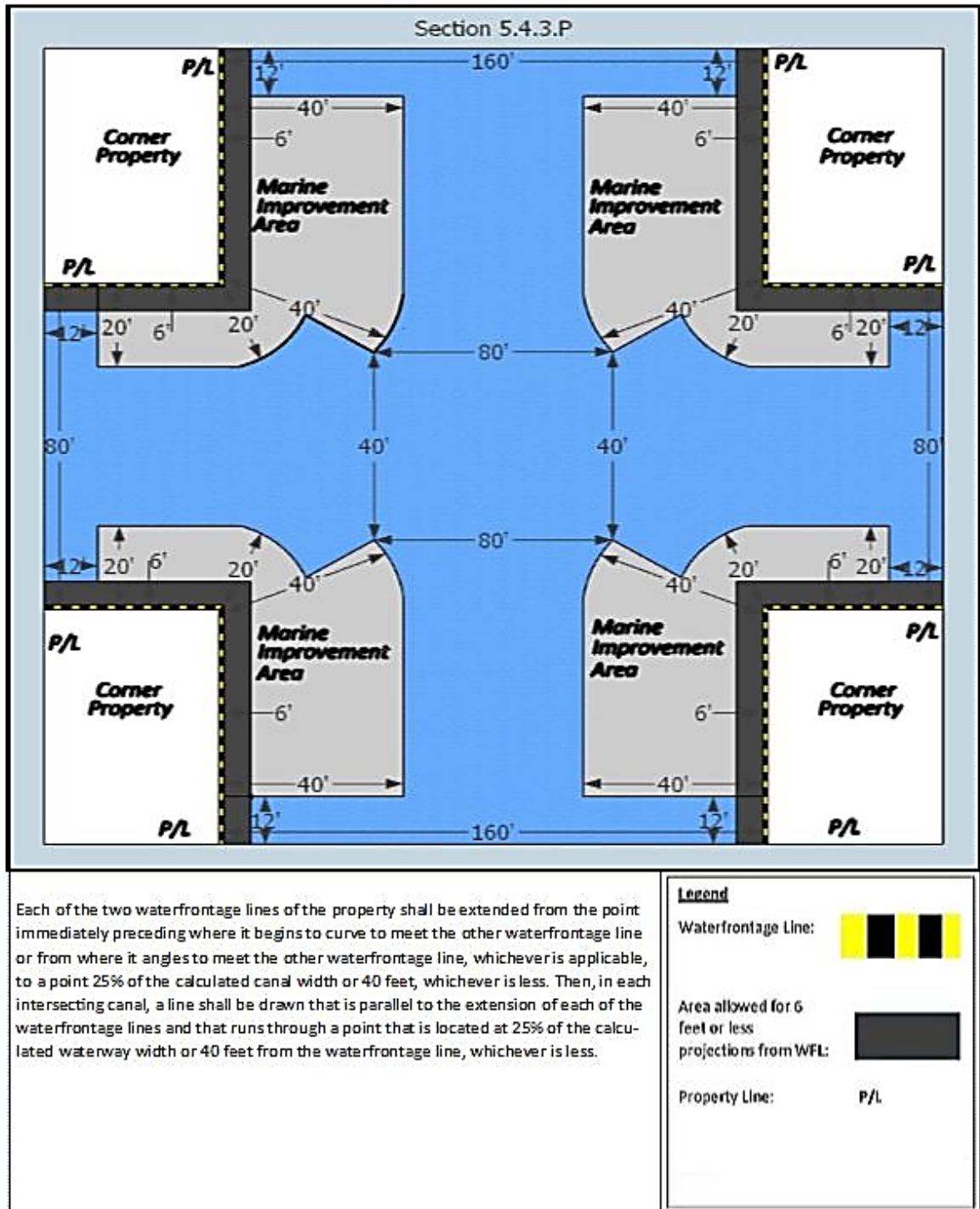
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1788 **Section 5.4.4. Joint Marine Improvements.**
1789

1790 Owners of adjoining waterfront parcels may adjust their abutting marine improvement area boundaries
1791 and offset requirements by entering into a written joint use agreement, provided the marine
1792 improvements are connected. A captain’s walk does not constitute a connection for requiring a joint
1793 marine improvement. All limitations regarding the maximum area of marine improvements shall apply to
1794 each property and the maximum marine improvement area allowed for each parcel shall not be combined
1795 or modified in any way so as to increase the maximum marine improvement area allowed for either parcel.
1796 Marine vessels or boat canopies when secured in any way to a joint marine improvement may extend
1797 beyond the end of one of the waterfront parcels involved at the point where such parcel abuts the other
1798 parcel sharing the marine improvement. However, no marine vessel (or any part thereof) shall extend
1799 beyond the outer ends of the water frontage of the two waterfront parcels except as provided in §
1800 5.4.3.A.8 The joint use agreement shall, at a minimum, comply with the following requirements.

- 1801
1802 A. The agreement shall contain the name(s) and current home address(es) of both property owners.
1803
1804 B. The agreement shall identify the waterway upon which the subject parcels are located and shall
1805 identify the waterfront parcels involved by legal description and by STRAP number. The agreement
1806 shall also include a signed and sealed survey of the subject adjoining parcels.
1807
1808 C. The agreement shall include a drawing of the proposed marine improvement(s) to be constructed,
1809 showing the design and dimensions of the marine improvement(s), and where the marine
1810 improvements will project from the parcels.
1811
1812 D. The agreement shall identify those areas that would be subject to access (ingress and egress)
1813 easements in conjunction with the joint marine improvement. Such easement(s) shall identify by legal
1814 description the property to which the easement attaches and shall be irrevocable except with the
1815 written consent of the city. The rights of each party with respect to such easement(s) shall run with
1816 the title to the respective parcels. A drawing identifying the easements shall also be included with the
1817 agreement.
1818
1819 E. The agreement shall identify the responsibilities of each of the parties for the construction and
1820 maintenance of the facilities. However, identification or division of responsibilities between parties in
1821 the agreement shall not affect the ability of the city to enforce any and all provisions of its Code of
1822 Ordinances or Land Development Codes against the property owner(s) of the joint marine
1823 improvement, jointly and severally.
1824
1825 F. The agreement shall state that the parties understand and agree to abide by all applicable federal,
1826 state, and local regulations pertaining to the construction, maintenance, and use of the facilities.
1827
1828 G. The agreement shall run with the land and be binding upon the parties, their successors, heirs, and
1829 assignees and it shall provide that it may not be rescinded or amended without the written consent
1830 of the city.
1831
1832 H. The parties to the agreement shall record the agreement, at their own expense, in the public records
1833 of Lee County. The agreement shall satisfy all requirements for recording, including those contained

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1834 in the Florida Statutes. No permit for the construction of a joint marine improvement or for the
1835 erection or installation of a boat canopy on a joint marine improvement shall be issued by the city
1836 until the parties have first provided to the city a copy of the fully executed agreement and evidence
1837 of recording that is satisfactory to the city, in its sole discretion.
1838

1839 I. Prior to execution and recording of the agreement, the parties shall submit a draft of the proposed
1840 agreement to the Community Development Director for review and comment.
1841

1842 **Section. 5.4.5. Quays and mooring piles.**
1843

1844 A. A seawall may be altered to accommodate the mooring of a vessel if it is determined that the seawall
1845 is structurally sufficient for that purpose.
1846

1847 B. Mooring piles may be installed directly adjacent to the seawall to allow for the mooring of watercrafts
1848 without a dock.
1849

1850 C. Pilings shall not be higher than eight feet above mean high water.
1851

1852 D. Any watercraft moored at a quay or a pile may not be any closer than 10 feet to the adjacent property
1853 line.
1854

1855 **Section. 5.4.6. Davits, watercraft lifts, and floating docks.**
1856

1857 A. Lifts: An electrical permit is required to install a lift within an existing u-shaped dock.
1858

1859 B. Davits:
1860

1861 1. The minimum side setback for davit installation shall be five feet from the side lot line to the
1862 center of the davit base.
1863

1864 2. Davits, including swinging lifts when extended over the water, may not extend further than 25%
1865 into the waterway or 30 feet whichever is less.
1866

1867 3. Overhead hoists, davits, or machinery shall not exceed eight feet above mean high water when
1868 not in use.
1869

1870 C. Floating docks and lifts:
1871

1872 1. For dimensional requirements refer to Section 5.4.3. above.
1873

1874 2. A floating dock or lift must be anchored in place so as not to impede the use of neighboring
1875 waterfront property.
1876

1877 **Section. 5.4.7. Boathouses and canopies.**
1878

1879 A. Boathouses are prohibited.

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- B. No overhead structure shall be constructed on any dock other than an approved boat canopy or sun shelter. Sun shelters shall be erected or installed on docks only in accordance with Section 5.2.10. of this article. Boat canopies are permitted to be erected or installed on marine improvements for the purpose of protecting a vessel from the elements only in accordance with the following:
 - 1. The support(s) and frame(s) of a boat canopy shall be constructed of a corrosion-resistant material. Boat canopy supports shall be arranged in an open design so as to allow visibility through the sides with openings no smaller than four feet in any dimension. No boat canopy support or frame shall be of a solid or opaque design so as to create a wall. No boat canopy shall have wooden framing or supports. No shutter roll-up design shall be permitted.
 - 2. The canopy shall be fabric or a material which can be rolled and folded without damage. The canopy shall be attached to the boat canopy supports or frames in such a manner that it detaches in a wind load of 70 mph or greater.
 - 3. The boat canopy shall not extend horizontally more than 30 inches over or beyond any dock to which the canopy is attached.
 - 4. No boat canopy shall exceed 40 feet in length or 18 feet in width.
 - 5. Boat canopies, their supports, and frames shall be maintained in good repair at all times. No canopy, canopy support, or frame shall be allowed to fall into disrepair or to become dilapidated, structurally dangerous, or unsafe. In the event a boat canopy, canopy support, or frame falls into disrepair, it shall be the responsibility of the owner of the waterfront parcel to remove the offending structure.
 - 6. Only one canopy may be permitted per parcel.
 - 7. No boat canopy, when measured at its highest point, shall extend more than 14 feet above the seawall cap, or if no seawall exists, above the decking of the marine improvement.

Section. 5.4.8. Bulkheads, seawalls, and retaining walls.

- A. Mandatory seawalls required; saline or brackish water. All parcels having frontage or direct and immediate access to frontage on any saline, brackish, or tidally influenced canal or other body of water within or bordering the boundaries of the city is required to have a seawall bulkheading the entire frontage exposed to contact with the water.
- B. Seawalls; fresh or non-saline water. All parcels having frontage or direct and immediate access to frontage on any freshwater or non-tidal canal or other body of water within or bordering the boundaries of the city are required to have a seawall bulkheading the entire frontage exposed to contact with the water or alternatives to vertical bulkheads as specified in the City of Cape Coral Engineering Design Standards. Seawalls or their alternative shall be structurally maintained at owner's expense so as not to cause a nuisance or hazard to safety. The provisions of this Section shall not apply to any parcels adjacent to or contiguous with any drainage ditch, canal, pond, or lake within any public or private golf course or public park.

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C. Bulkheads under SFWMD jurisdiction. The construction of bulkheads, in association with water management system lake construction under jurisdiction of SFWMD, shall be in compliance with SFWMD criteria.

Single-family residential and duplex parcels. Parcels bounded by bulkheads shall construct an infiltration trench adjacent to and along the entire length of the bulkhead.

CHAPTER 5. LANDSCAPING

Section 5.5.1. Purpose and intent.

This section is established to provide general landscape regulations, to improve the appearance of certain setback and yard areas, including off-street vehicular parking, open lot sales and service areas, and to protect and preserve the appearance, character, and value of the surrounding neighborhoods. The principles of the Florida-Friendly Landscaping Program with regard to planning and design, soil improvement, efficient irrigation, limited turf areas, mulches, drought tolerant plants, and appropriate maintenance are the basis for the principles in this section and should be used as guidance in all new construction and landscape renovations so as to provide the most green with the least water and create a landscape that can survive largely undamaged in case of short term water restrictions.

Section 5.5.2. Florida-Friendly Landscaping Program principles.

The city strongly encourages adherence to the Florida-Friendly Landscaping Program that includes the following principles:

- A. Right plant, right place. Plants selected to suit a specific site will require minimal amounts of water, fertilizer and pesticides.
- B. Water efficiently. Irrigate only when lawn and landscape need water.
- C. Fertilize appropriately. Less is often better. Over-use of fertilizer can be hazardous to your yard and the environment.
- D. Mulch. Maintaining a layer of mulch will help retain soil moisture, prevent erosion and suppress weeds.
- E. Attract wildlife. Plants in private yards that provide food, water and shelter can conserve Florida's diverse wildlife.
- F. Manage yard pests responsibly. Unwise use of pesticides can harm people, pets, beneficial organisms, and the environment.
- G. Recycle yard waste. Grass clippings, leaves, and yard trimmings recycled onsite provide nutrients to the soil and reduce waste disposal.

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1972 H. Reduce stormwater runoff. Water running off from private yards can carry pollutants such as soil,
1973 debris, fertilizer, and pesticides that can adversely impact water quality.
1974

1975 I. Protect the waterfront. Waterfront property is very fragile and should be carefully protected to
1976 maintain freshwater and marine ecosystems.
1977

1978 **Section 5.5.3. Applicability.**
1979

1980 Except as provided under Section 5.5.4, Exemption, the landscape standards of this section shall apply to
1981 all new construction of single-family homes and duplexes, and to all other new construction requiring
1982 site plan review per under Article 3. Additionally, all landscape standards of this section shall apply to
1983 amendments to a site plan that would have the effect of:
1984

1985 A. Increasing the total square footage of any one building or the total square footage of all buildings on
1986 a site by more than 20%;

1987 B. Increasing the number of buildings; or
1988

1989 C. Adding any new or expanding any existing off-street parking area.
1990

1991 D. No certificate of occupancy or certificate of completion shall be issued until the Department of
1992 Community Development (DCD) has determined that the applicant has complied with all the
1993 provisions of this section and has approved the finished landscape product.
1994
1995

1996 **Section 5.5.4. Exemption.**
1997

1998 These regulations do not apply to projects located where the City Council has established specific
1999 landscape standards for a unique area of the city; unless the specific landscape standards otherwise
2000 expressly state their applicability.
2001

2002 **Section 5.5.5. Conflicts.**
2003

2004 If any of the landscape standards of this section conflict with any other provision of the City of Cape Coral
2005 Code of Ordinances or the LDC the provision that establishes the more specific standard governs. If neither
2006 conflicting provision establishes a more specific standard, then the more stringent provision governs
2007 unless otherwise expressly provided.
2008

2009 **Section 5.5.6. Landscape plans.**
2010

2011 A. Landscape plan required. A landscape plan that meets the requirements below shall be provided as
2012 required by Article 3.
2013

2014 B. Landscape plan standards. Landscape plans for all projects that require a landscape plan, including
2015 Site Development Plans and Subdivision Construction Plans shall be signed and sealed by a landscape
2016 architect, or other licensed professional authorized pursuant to F.S. Chapter 481, Part II, as amended.
2017 All landscape plans shall meet the following requirements and contain the following information:

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1. Scale of not less than one-inch equals 30 feet. This requirement shall not preclude the inclusion of a smaller-scaled drawing such as a key map for the purpose of establishing the orientation of landscape plans for large sites that, because of their size, cannot be displayed on a single sheet.
 2. Zoning district and future land use classification for the subject parcel and all abutting parcels.
 3. The approximate location, quantity, diameter/caliper, botanical and common name, and native status of all heritage trees and other existing trees with a caliper of two inches or greater, and whether they are proposed to be preserved or removed. Trees to be removed, if any, shall be indicated on a separate sheet.
 4. Location, quantity, spacing, diameter/caliper, overall height (at time of planting) of proposed trees, palm trees, botanical and common name, and native status. Any existing trees located within the street right-of-way, between the closest outside edge of pavement and the subject property shall be shown.
 5. Location, quantity, spacing, container size, overall height (at time of planting) of proposed shrubs and groundcover, botanical and common name, and native status.
 6. Types, amounts, and placement of other hardscape materials such as berms and walls required by this section or Section 5.5.13, or both.
 7. A statement or plan describing compliance with the irrigation standards of these regulations.
 8. Location and type of existing and proposed utility lines, easements, electrical transformer boxes, fire hydrants or fire appliances, sidewalks, parking spaces, light poles, and stop signs.
 9. Indication of existing and proposed grades if existing vegetation is to be retained on site.
 10. Existing or proposed onsite curbing.
 11. Calculations, notes, and installation details indicating how the proposed landscaping will be in compliance with requirements of this section.
 12. Vegetation protection barricades to be used during construction, for all trees to be preserved.
 13. Safe sight distance triangles.
 14. Locations of proposed and existing off-street parking area lighting, if applicable.
 15. A note that all existing prohibited vegetation shall be removed.

Section 5.5.7. Planting near utility infrastructure.

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2063 Landscaping shall not interfere with or obstruct any existing or proposed pad-mounted transformer,
2064 overhead or underground utility line, utility service, fire hydrant, or fire appurtenance.
2065

2066 A. Overhead power lines. Canopy tree branches or palm tree fronds within ten feet of existing overhead
2067 transmission or distribution lines, measured radially from the line, shall be subject to trimming or
2068 removal by the power company as necessary to maintain public overhead utilities in accordance with
2069 the National Electric Safety Code (NESC). No canopy trees or palm trees shall be planted closer to an
2070 overhead transmission or distribution line than as specified by the Minimum Separation Distance
2071 Between Center of Trees and Overhead Transmission or Distribution Lines indicated in Table 1. In
2072 order to avoid conflicts with power lines and avoid the need for removal or pruning that would harm
2073 or distort their natural shape, it is recommended that no canopy trees or palm trees should be planted
2074 closer to an overhead transmission or distribution line than as specified by the Recommended
2075 Separation Distance Between Trees and Overhead Transmission or Distribution Lines indicated in
2076 Table 1. The separation between a tree and an overhead transmission or distribution line shall be the
2077 distance from the center of the tree at ground level to the closest point on the ground that is within
2078 the vertical plane of an overhead transmission or distribution line at rest. A species of canopy tree or
2079 palm tree that is not listed in Tables 5.5.7.A and 5.5.7.B shall not be planted within 20 feet of existing
2080 overhead transmission or distribution lines without the prior written consent of the Department of
2081 Community Development Director.
2082

Table 5.5.7.A: Minimum Separation Distance Between Palm Trees and Overhead Transmission or Distribution Lines			
PALMS			
Common Name	Botanical Name	Minimum Separation Distance (in feet) Between Center of Trees and Overhead Transmission or Distribution Lines	Recommended Separation Distance (in feet) Between Center of Trees and Overhead Transmission and Distribution Lines
Allexandra Palm	Archontophoenix alexandrae	10	13
Areca Palm	Chrysalidocarpus lutescens (Dypsis lutescens)	No minimum distance	No minimum distance
Bamboo Palm	Chamedorea spp.	No minimum distance	No minimum distance
Cabbage Palm (Sabal Palm)	Sabal palmetto	8	13
Canary Island Date Palm	Phoenix canariensis	15	21
Chinese Fan Palm	Livistonia chinensis	8	13
Christmas Palm	Adonidia merrillii (Veitchii merrillii)	No minimum distance	No minimum distance
Coconut Palm	Cocos nucifera	10	21
Date Palm	Phoenix dactylifera	10	21
Dwarf Palmetto	Sabal minor	No minimum distance	No minimum distance
European Fan Palm	Chamaerops humilis	No minimum distance	No minimum distance
Fishtale Palm	Caryota mitis	8	14

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Foxtail Palm	<i>Wodyetia bifurcata</i>	8	15
Lady Palm	<i>Rhapis excelsa</i>	No minimum distance	No minimum distance
Macarthur Palm	<i>Ptychosperma macarthuri</i>	8	14
Majesty Palm	<i>Ravenea glauca</i>	No minimum distance	No minimum distance
Needle Palm	<i>Rhapidophyllum hystrix</i>	No minimum distance	No minimum distance
Paurotis Palm (Everglades Palm) (may grow to 25 feet)	<i>Acoelorrhaphe wrightii</i>	No minimum distance	13
Pindo Palm	<i>Butia capitata</i>	No minimum distance	No minimum distance
Pygmy Date Palm	<i>Phoenix roebellini</i>	No minimum distance	No minimum distance
Queen Palm	<i>Syagrus romanzoffianum</i>	9	18
Royal Palm	<i>Roystonea spp.</i>	10	21
Saw Palmetto	<i>Serenoa repens</i>	No minimum distance	No minimum distance
Senegal Island Date Palm (Reclinata Palm)	<i>Phoenix redinata</i>	8	16
Silver Palm	<i>Coccothrinax argentata</i>	No minimum distance	No minimum distance
Solitare (Alexander) Palm	<i>Ptychosperma elegans</i>	8	14
Thatch Palm	<i>Thrinax spp.</i>	No minimum distance	No minimum distance
Washingtonia Palm (Mexican Washington Palm)	<i>Washingtonia robusta</i>	8	13

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Table 5.5.7.B: Minimum Separation Distance Between Canopy Trees and Overhead Transmission or Distribution Lines			
CANOPY			
Common Name	Botanical Name	Minimum Separation Distance (in feet) Between Center of Trees and Overhead Transmission or Distribution Lines	Recommended Separation Distance (in feet) Between Center of Trees and Overhead Transmission and Distribution Lines
Bald Cypress	<i>Taxodium distichum</i>	15	30
Black Olive (also see Shady Lady Black Olive)	<i>Bucida buceras</i>	20	30
Cassia fistula	<i>Cassia fistula</i>	15	30
Gumbo Limbo	<i>Bursera simaruba</i>	15	30
Jacaranda	<i>Jacaranda mimosfolia</i>	20	30

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Laurel Oak	Quercus laurifolia	15	30
Live Oak	Quercus virginiana	20	30
Mahogany	Swietenia macrophylla	15	30
Pigeon Plum	Coccoloba diversifolia	8	10
Slash Pine	Pinus elliottii	15	30
Southern Magnolia	Magnolia grandiflora	15	30
Wild Tamarind	Lysiloma bahamensis	25	35
Yellow Poinciana	Peltophorum pterocarpum	15	20
Drake Elm	Ulmus parvifolia	15	
Red Maple	Acer rubrum	15	30
Satin Leaf	Chyrsophyllum oliviforme	12	15
Shady Lady Black Olive	Bucida buceras "Shady Lady"	No minimum distance	15
Tabebuia, pink or yellow	Tabebuia spp.	10	15

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- B. Visibility triangles. All landscaping and buffers shall conform to the design limitations established by Article 5, Section 5.1.7, Visibility Triangles.

Section 5.5.8. Existing trees.

- A. Generally. Except for trees on the Florida Exotic Pest Plant Council's list of Category I invasive exotics, existing trees may be used to meet the minimum tree requirements for the site if they are indicated on the landscape plan (when a landscape plan is required), have a minimum diameter at breast height (DBH) of two inches, and are properly protected during any clearing or construction on the property.

Developers are encouraged to preserve existing heritage trees. For any site other than a single-family or duplex site, if during development or any time throughout the life of the development, regardless of change in ownership or use(s), any heritage tree is removed or damaged, it shall be replaced with a Florida native tree that meets the quality of materials standards in this article, with a minimum caliper of six inches measured at a height of 12 inches above the ground, with a height not less than 20 feet; however, this requirement shall not increase the total number of trees otherwise required for the site by more than 10%.

- B. Protection of trees during development activities. Prior to any land preparation or other development activities, a protective barrier shall be established around all trees that are not to be removed, as follows:
1. The protective barrier shall enclose at least that area within a radius of one foot for every inch of caliper DBH around the tree.

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- 2110
2111 2. The protective barrier may encompass more than one tree, and shall be established with a barrier
2112 as follows:
2113
2114 a. Posts shall be implanted in the ground deep enough to be stable and with at least three feet
2115 visible above ground.
2116
2117 b. The protective posts shall be placed not more than six feet apart and shall be linked together
2118 at a height of at least three feet by rope, chain, silt fence fabric, or orange safety fence at least
2119 three feet in height, or any combination thereof.
2120
2121 3. Required protective barriers and perimeter lines shall remain in place until all construction
2122 activity, except landscaping within the protected area, is terminated.
2123
2124 C. Construction activity limitations.
2125
2126 1. No attachment, wires (other than supportive wires), signs or permits may be fastened to any tree
2127 that is not to be removed.
2128
2129 2. Landscaping activities within the area of the protective barrier (before and after it is removed)
2130 shall be accomplished with manual labor or light machinery that, if self-propelled, is not designed
2131 to bear the weight of the operator. Such light machinery may include string trimmers, walk-behind
2132 lawn mowers, or chainsaws. Except as necessary to perform landscaping activities as described
2133 above, no construction personnel shall enter the area within the protective barrier. Further, no
2134 equipment, tools, construction materials, debris of any kind, or more than six inches of soil shall
2135 be placed within the protective barrier.
2136
2137 3. If fill is deposited adjacent to a protective barrier, a suitable temporary or permanent retaining
2138 structure shall be constructed to prevent siltation within the area of the protective barrier.
2139
2140 4. If it can be reasonably accomplished, water, sewer, and other utility lines should be routed around
2141 the protective barrier of trees that are not to be removed. If a line cannot reasonably be routed
2142 around the protective barrier, the line shall be tunneled beneath the area and shall be offset to
2143 one side of the trunk to prevent damage to the main tap roots.
2144
2145 D. Exempt trees. This subsection shall not apply to trees grown at commercial nurseries, as part of their
2146 stock.
2147

2148 **Section 5.5.9. Prohibited vegetation.**
2149

- 2150 A. The following invasive exotic plants are prohibited and shall be removed from the development site,
2151 in its entirety. For projects developed in phases, all invasive exotic plants shall be removed from areas
2152 to be developed under future phases at the time the first or any subsequent phase is developed.
2153 Methods to remove and control invasive exotic plants must be included on required landscape plans,
2154 for projects that require a landscape plan. Methods of removal and control that would damage native
2155 vegetation to be preserved are prohibited. The development sites shall be maintained free from

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2156 invasive exotic plants in perpetuity. For purposes of this subsection, invasive exotic plants include the
2157 following listed plants, or those plants currently listed as a Category I invasive by the Florida Exotic
2158 Pest Plant Council (FLEPPC) at the time of development:

2159
2160

Table 5.5.9: PROHIBITED INVASIVE EXOTICS	
Common Name	Scientific Name
Earleaf Acacia	acacia auriculiformis
Woman's Tongue	Albizia lebeck
Bishopwood	Bischofia javanica
Australian Pines	All Casuarina species
Carrotwood	Cupianopsis anacardioides
Rosewood	Dalbergia sissoo
Air Potato	Dioscorea alata
Murray Red Gum	Eucalyptus camaldulensis
Cuban Laurel Fig	Ficus microcarpa
Japanese Climbing Fern	Lygodium japonicum
Old World Climbing Fern	Lygodium microphyllum
Melaleuca, Paper Tree	Melaleuca quinquenervia
Downy Rose Myrtle	Rhodomyrtus tomentosus
Chinese Tallow	Sapium sebiferum
Brazilian Pepper, Florida Holly	Schirus terebinthifolius
Tropical Soda Apple	Solanum viarum
Java Plum	Syzygium viarum
Rose Apple	Syzygium jambos
Cork Tree	Thespesia populnea
Wedelia	Wedelia trilobata

- 2161
2162 B. The Weeping Fig (*Ficus benjamina*) is prohibited due to aggressive root systems unless it is maintained
2163 as a hedge with a maximum height of eight feet.
2164
2165 C. City of Cape Coral and state-prohibited vegetation shall be removed from all sites prior to issuance of
2166 certificate of occupancy or certificate of completion.
2167

2168 **Section 5.5.10. Quality, size, spacing, and species mix.**
2169

2170 All plant materials required by this section shall conform to the following at the time of planting:
2171

- 2172 A. Plant installation standards. Plant materials shall be installed in soil conditions that are conducive to
2173 the proper growth of the plant material. Soil in planting areas shall be loose, permeable, friable, and
2174 free of limestone and other construction materials, off-street parking area base material, rocks,
2175 noxious weeds, grasses, hard pan, clay, or other debris. For purposes of this section, noxious weeds

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2176 are those plants listed in Section 5B-57.007, F.A.C, State Noxious Weed List, by the Florida Department
2177 of Agriculture and Consumer Services. It is recommended that such materials be removed to a depth
2178 of two and one-half feet for the well-being of plant materials. Required canopy trees, accent trees,
2179 palm trees, and shrubs shall be planted on grades not exceeding 3:1.
2180

2181 B. Plant species and grade. A minimum of 50% of all required canopy trees and accent trees and a
2182 minimum of 30% of all required shrubs and groundcovers, excluding turf grass areas, shall be Florida
2183 native as defined by this section. Any plant material on the Florida Exotic Pest Plant Council's list of
2184 Category I invasive exotics, as may be amended, shall not be counted toward the required plantings
2185 in this section. The City of Cape Coral prohibits the use of any plant material on the Florida Exotic Pest
2186 Plant Council's list of Category II invasive exotics, which are not expressly prohibited by Section 5.5.9.
2187 Plant materials used in conformance with the provisions of this section shall meet or exceed the
2188 Standards for Florida No. 1, as set forth in the latest edition of "Grades and Standards for Nursery
2189 Plants" published by the State Department of Agriculture and Consumer Services, including minimum
2190 crown spread diameter, root-ball sizes, and container volumes.
2191

2192 C. Tree standards.
2193

2194 1. Canopy tree size. Except in the South Cape Downtown District, all canopy trees required to meet
2195 minimum requirements shall have a minimum height of ten feet, and shall have a minimum
2196 caliper of two inches measured at a height of 12 inches above the ground. In the South Cape
2197 Downtown District, all canopy trees required to meet minimum requirements shall have a
2198 minimum height of 12 feet and a minimum caliper of three inches measured at a height of 12
2199 inches above the ground.
2200

2201 2. Palm tree size. Palm trees required to meet minimum requirements shall have a minimum size of
2202 16 feet overall, unless located within ten feet of a walkway, in which case they shall have a
2203 minimum of ten feet of clear trunk at planting.
2204

2205 3. Accent tree size. Accent trees required to meet minimum requirements shall have a minimum
2206 height of eight feet, have a minimum caliper of one and one-half inches measured at a height of
2207 six inches above the ground.
2208

2209 4. Tree species mix. A mix of species shall be provided according to the overall number of trees
2210 required to be planted. Species shall be planted in proportion to the required mix. The minimum
2211 number of species to be planted is indicated in Table 2.
2212

Table 5.5.10: Required Species Mix	
Required Number of Trees	Minimum Number of Species
1 - 4	1
5 - 10	2
11 - 20	3
21 - 30	4
31+	5

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- 5. Shrub standards. Except as otherwise provided herein, shrubs planted in residential development shall be a minimum of 18 inches in height and be in at least a three-gallon container size at time of planting. Shrubs planted in all non-residential and mixed-use development must be a minimum of 24 inches in height and be in at least a seven-gallon container size at time of planting. Shrubs required for buffer yard plantings must be a minimum of 32 inches in height and be in at least a seven-gallon container size at time of planting. Ornamental grasses may be used in lieu of 30% of shrubs required. Saw palmettos (*Serenoa repens*) and coonties (*Zamia floridana*) may be used as shrubs, provided they are 12 inches in height at time of planting.
- 6. Groundcovers and sod.
 - a. Groundcovers shall be planted no more than 24 inches apart for one-gallon pots or 12 inches apart for four-inch pots.
 - b. Wherever used, sod shall be installed with no gaps or overlaps, so as to present a finished appearance and prohibit erosion of the planted area.
- 7. Firewise landscaping. Landscaping within areas subject to wildfire hazard and should incorporate firewise landscaping techniques promulgated by the Florida Department of Economic Opportunity and the Department of Agriculture and Consumer Services.

Section 5.5.11. Planting in public drainage or utility easements.

No canopy trees, accent trees, palm trees, or shrubs required by this section shall be planted within a public drainage or utility easement without approval of the city. The city may deny approval to place landscaping materials in an easement if such would conflict with existing or proposed utilities or drainage functions. If the city approves the placement of any plant material installed to meet the requirements of this section within a public drainage or utility easement and the landscape material is removed or damaged by construction or maintenance of drainage facilities or utilities, the property owner shall replace all such plant material within 30 days of the completion of the drainage or utility work, in accordance with the following criteria:

- A. Canopy trees.
 - 1. If planted back in the public drainage or utility easement, the property owner shall replace the canopy tree with a tree having a minimum caliper as the removed or damaged tree; however, if the removed or damaged tree is greater than four inches in caliper (measured at a height of 12 inches above the ground), the replacement tree shall be required to be a minimum of four inches in caliper.
 - 2. If planted in an alternate location that is not within a public drainage or utility easement, the property owner shall replace the canopy tree with one meeting the minimum size required within this Chapter and that is subject to all other requirements of this section. For sites required to have a site plan, such alternate plant location shall be indicated on a revised landscape plan and is subject to approval by the city.

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- B. Palm trees.
1. If planted back in the public drainage or utility easement, the property owner shall replace the palm tree with a palm tree having a minimum caliper as the removed or damaged palm tree; however, if the removed or damaged palm tree is greater than nine inches in caliper (measured at a height of 12 inches above the ground), the replacement palm tree shall be required to be a minimum of nine inches in caliper.
 2. If planted in an alternate location that is not within a public drainage or utility easement, the property owner shall replace the palm tree with one meeting the minimum size required within this Chapter and that is subject to all other requirements of this section. For sites required to have a site plan, such alternate plant location shall be indicated on a revised landscape plan and is subject to approval by the city.
- C. Shrubs. Regardless of whether the shrub is located in a public drainage or utility easement, the property owner shall replace the shrub with a shrub meeting the minimum size required within this chapter.
- The property owner shall notify the city when the replacement planting required by this subsection have been installed and are ready for re-inspection.

Section 5.5.12. Single-family homes and duplexes.

The following landscape requirements shall be met for all single-family and duplex units.

- A. Trees required for single-family homes. All newly constructed single-family homes shall have a minimum number of trees per building site in accordance with Table 5.5.12.A: Trees Required for Single-Family Homes. Where a home site includes a septic tank between the structure and the street, trees shall be planted a minimum of six feet from the septic tank or its drain field.

Table 5.5.12.A: Trees Required for Single-Family Homes			
	Canopy Trees	Accent Trees	Palm Trees
Option A:	3	—	—
Option B:	2	—	3
Option C:	2	2	—
Option D:	1	2	3

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- B. Trees required for Duplexes. All newly constructed duplexes shall have a minimum number of trees per side in accordance with Table 5.5.12.B Trees Required for Duplexes. Where a site includes a septic tank between the structure and the street, trees shall be planted a minimum of six feet from the septic tank or its drain field.

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Table 5.5.12.B: Trees Required for Duplexes (PER SIDE)			
	Canopy Trees	Accent Trees	Palm Trees
Option A:	3	—	—
Option B:	2	—	3
Option C:	2	2	—
Option D:	1	2	3

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- C. Credit for larger, canopy trees. The required number of canopy trees may be reduced by one tree if an existing or proposed canopy tree is at least two inches of increased caliper above the minimum planting size specified in this Chapter. Single-family homes and duplexes are not eligible for the Tree Credit Program provided by Section 5.5.15.
- D. Shrubs required. Each single-family home and duplex shall be landscaped with a minimum of 20 three-gallon shrubs of which a minimum of ten shall be planted at any location in the front yard.
- E. Mulch, groundcover, and planting beds.
 1. The soil surface of the land area not covered by structures or hardscape features shall be covered with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs, groundcover, or any combination thereof. When shrubs are used in planting beds, shall be planted not more than 48 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used to cover more than 20% of the total land area not covered by structures or hardscape features and is not within a front yard or right-of-way.
 2. A two-inch minimum layer of organic mulch, measured after watering-in, shall be placed and maintained around all newly installed canopy trees, accent trees, palm trees, and shrubs. A two-inch minimum layer of organic mulch, measured after watering-in, shall be placed around all newly installed groundcover plants so that bare areas of sod are not exposed; however, the mulch around groundcover plants is not required to be maintained after the groundcover becomes established. Except as otherwise provided in these regulations, each canopy tree, accent tree, and palm tree shall have organic mulch no less than 36 inches beyond its trunk in all directions; however, the mulch shall be kept away from the trunks and stems of plants so as to avoid conditions that may be conducive to collar rot, basal canker, or other fungi. The use of cypress or cedar mulch is strongly discouraged.
 3. The use of any inorganic mulch, including pebbles or shells to cover the soil surface is not recommended. Inorganic mulch should only be used to frame the outside of beds or to control erosion and should not be used to cover the root ball of newly planted trees or shrubs. Inorganic mulch shall not exceed 10% of the total land area not covered by hardscape features.
 4. The right-of-way from the edge of the street pavement to the property line shall be planted with sod or other approved groundcovers, except as otherwise provided in the City of Cape Coral Code of Ordinances or Land Use and Development Regulations.

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2335 F. Irrigation systems. Irrigation systems are encouraged but not required; however, where they are
2336 installed, they shall meet the standards of Section 5.5.14.
2337

2338 **Section 5.5.13. Landscaping for all development other than single-family homes and duplexes.**
2339

2340 The provisions of this section shall not apply to single-family homes and duplexes unless otherwise
2341 specifically stated herein. The soil surface of the land area not covered by structures or hardscape features
2342 shall be covered with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs,
2343 groundcover, or any combination thereof. Shrubs in planting beds shall be planted not more than 48
2344 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used to cover more
2345 than 20% of the total land area not covered by structures or hardscape features and is not within a front
2346 yard or right-of-way. The right-of-way from the edge of the street pavement to the property line shall be
2347 planted in accordance with the requirements of subsection B. below.
2348

2349 A. Tree planting requirements.
2350

2351 1. Except in the South Cape District, all sites, exclusive of buffer areas, shall have at least one canopy
2352 tree for each 1,000 square feet of gross land area, except that accent trees or palm trees may be
2353 substituted for a required canopy tree as indicated below. Trees required for buffers shall not be
2354 used for meeting the minimum number of trees required for a site. In the South Cape District, all
2355 sites shall have at least one canopy tree for each 3,500 square feet of gross land area, except that
2356 accent trees or palm trees may be substituted for a required canopy tree as indicated below. For
2357 all districts, in the event the calculation of required number of canopy trees yields a fractional
2358 number, that number shall be rounded up to the next highest whole number prior to any
2359 calculation of the quantity of substituted accent trees or palm trees. Trees planted to meet the
2360 other requirements of this section can be included in the calculation of total number of trees
2361 required by this section. Such trees may be planted singularly or grouped together. Required
2362 canopy trees shall not be spaced less than 20 feet on center. Except in the South Cape District,
2363 each canopy tree shall be planted in a minimum planting area of 100 square feet with a minimum
2364 dimension of seven feet in width unless an alternative minimum planting area or dimensions are
2365 approved by the Director, based on planting details that ensure reasonable soil surface and
2366 planting medium volumes.
2367

2368 2. In the South Cape District, each canopy tree shall be planted a minimum planting area of 24 square
2369 feet with a minimum dimension of four feet in width unless an alternative minimum planting area
2370 or dimensions are approved by the Director, based on planting details that ensure reasonable soil
2371 surface and planting medium volumes. Except in the South Cape District not more than 50% of
2372 the required canopy trees may be substituted with accent trees or palm trees in accordance with
2373 Section 5.5.13. In the South Cape District, not more than 25% of the required canopy trees may
2374 be substituted with accent trees or palm trees, in accordance with Section 5.5.13., as follows:
2375

2376 a. Accent trees may be substituted for required canopy trees at a rate of two accent trees for
2377 each canopy tree required; however, no canopy tree required for a landscape buffer yard shall
2378 be substituted with an accent tree, unless the minimum width of available buffer yard options
2379 would preclude compliance with the minimum separation distance between trees and
2380 overhead power lines.

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- b. The following palms shall not be substituted for required canopy trees:

Table 5.5.13.A: PROHIBITED SUBSTITUTIONS FOR CANOPY TREES	
Common Name	Botanical Name
Areca Palm	<i>Chrysalidocarpus lutescens</i> (<i>Dypsis lutescens</i>)
Bamboo Palm	<i>Chamedorea</i> spp.
Christmas Palm	<i>Adonidia merrillii</i> (<i>Veitchii merrillii</i>)
Dwarf Palmetto	<i>Sabal minor</i>
European Fan Palm	<i>Chamaerops humilis</i>
Lady Palm	<i>Rhapis excelsa</i>
Majesty Palm	<i>Ravenea glauca</i>
Needle Palm	<i>Rhapidophyllum hystrix</i>
Pygmy Date Palm	<i>Phoenix roebellini</i>
Saw Palmetto	<i>Serenoa repens</i>
Silver Palm	<i>Coccothrinax argentata</i>
Thatch Palm	<i>Thrinax</i> spp.

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To meet tree planting requirements in a landscape buffer yard or in off-street parking and vehicle use areas, palm trees, other than those listed above, may be substituted for canopy trees at a rate of three palm trees per each canopy tree substituted, regardless of the palm tree species. Except in the South Cape Downtown District, to meet tree planting requirements for areas other than a landscape buffer or off-street parking and vehicle use areas, palm trees may be substituted for required canopy trees at a rate of one palm tree per each canopy tree substituted. In the South Cape Downtown District, to meet tree planting requirements for areas other than a landscape buffer yard, palm trees may be substituted for required canopy trees at a rate of two palm trees per each canopy tree substituted.

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- c. Except for plantings in or near surface water management areas, a two-inch minimum layer of organic mulch, measured after watering-in, shall be placed and maintained around all newly installed canopy trees, accent trees, palm trees, and shrubs. Except in the South Cape District, each tree shall have organic mulch no less than 36 inches beyond its trunk in all directions. In the South Cape District, each tree shall have organic mulch no less than 18 inches beyond its trunk in all directions. All mulch shall be kept away from the trunks and stems of plants so as to avoid conditions that may be conducive to collar rot, basal canker, or other fungi.

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The use of cypress or cedar mulch is strongly discouraged.

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- d. The use of any inorganic mulch, including pebbles or shells to cover the soil surface shall only be used to frame the outside of beds or to control erosion. Inorganic mulch shall not exceed 10% of the total land area not covered by structures, pools, accent boulders, driveways, sidewalks, or other paving. It be used to cover the root ball of newly planted trees or shrubs.

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- 2410 The balance of the soil surface shall be covered with planting beds with a two-inch minimum
2411 layer of organic mulch.
2412
- 2413 e. Canopy trees shall not be planted within seven feet of any roadway, sidewalk, or public utility
2414 unless an acceptable root barrier material is installed between the tree and the roadway,
2415 sidewalk, or public utility. Acceptable root barrier material shall consist of one of the
2416 following: a manufactured root barrier material, installed in accordance with manufacturer's
2417 directions, reinforced concrete with a minimum depth of 16 inches, or a continuous sheet of
2418 aluminum with a minimum depth of 16 inches and a minimum thickness of 0.024 inches.
2419 Where a root barrier is required, it shall be installed for a minimum distance of 20 linear feet.
2420
- 2421 f. In the event a property owner installs a public sidewalk closer than seven feet to any extant
2422 canopy tree, the property owner shall install an acceptable root barrier material in accordance
2423 with manufacturer's directions, such as herbicide impregnated materials or reinforced
2424 concrete of sufficient width and length, which will prevent the encroachment or undermining
2425 by the tree's root system, prior to the installation of the sidewalk.
2426
- 2427 g. In the South Cape District, in the event that the tree requirements in this section cannot be
2428 met due to site constraints, the property owner may pay an in lieu of fee to the Downtown
2429 CRA Tree Fund. Such site constraints shall include size of site, access or circulation
2430 requirement making trees impracticable, or extant site layout. The City Council shall establish
2431 a fee based on the average cost of the aforementioned trees. The city will use the funds in
2432 the Downtown CRA Tree Fund to provide or enhance the landscaping and vegetation in public
2433 areas of the Downtown CRA. To qualify to pay an in lieu of tree fee, a property owner must
2434 apply for approval by the Director of the Department of Community Development. If the
2435 Director approves the application, then the property owner may pay an in lieu of tree fee
2436 meeting planting requirements. This provision does not preclude applicants from applying for
2437 deviations in accordance with Section 5.5.20.
2438
- 2439 B. Right-of-way. The right-of-way from the edge of the street pavement to the property line shall be
2440 planted with sod or other approved groundcovers, except as otherwise provided in the City of Cape
2441 Coral Code of Ordinances or Land Development Code.
2442
- 2443 C. Landscape design features. Six types of landscaping may be required on a site, depending on the site
2444 location and the specific elements of the development: foundation landscaping, landscaping adjacent
2445 to roads, off-street parking and vehicle use areas, retention/detention areas, and buffers. Trees
2446 planted to meet the requirements of these landscape design features can be included in the
2447 calculation of total number of trees required by this section under tree planting requirements.
2448
- 2449 1. Foundation Landscaping. To provide aesthetic relief between a building and off-street parking or
2450 vehicular use areas, all new development, except development in the Industrial District and South
2451 Cape District, must provide foundation landscaped areas equal to 10% of the proposed building
2452 gross ground level floor area. These foundation landscaped areas must be between the off-street
2453 parking area and the building, between public streets and the building, or between vehicular
2454 access ways and the building, or any combination thereof, with emphasis on the side(s) most
2455 visible to the public. Foundation landscaping may consist of surface level landscaped areas, raised

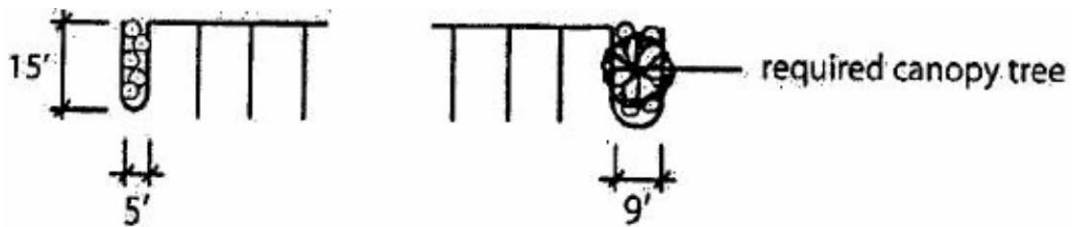
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- 2456 planters, planter boxes, or any combination thereof. The width of the foundation landscaped
2457 areas shall be five feet, except for sites less than one acre with an average depth less than or equal
2458 to 135 feet, in which case the width shall be three feet. Foundation landscaped areas may be
2459 planted with trees, but must be planted with shrubs spaced a maximum of three feet on centers.
2460
- 2461 2. Landscaping Adjacent to Roads. Where a development site abuts a public right-of-way, excluding
2462 a dedicated alley, the following shall apply except within Mixed-Use Districts:
2463
- 2464 a. Except as otherwise provided herein, a strip of land, a minimum of ten feet in width, shall be
2465 provided between the abutting right-of-way and any structure or off-street parking area. For
2466 sites or portions of sites that are 135 feet or less in depth, the width may be reduced to five
2467 feet.
2468
- 2469 b. At a minimum, perimeter landscaping in this area shall consist of the following:
2470
- 2471 i. One shrub for every three linear feet of landscaped area, planted separately or grouped,
2472 except where a carport or an off-street parking or vehicular use area abuts the strip of
2473 land that is required adjacent to roads. Where a carport or an off-street parking or
2474 vehicular use area abuts the strip of land required adjacent to roads, a continuous hedge,
2475 consisting of shrubs spaced no greater than three feet on center is required.
2476
- 2477 ii. The requirement for canopy trees or accent trees depends on the presence of overhead
2478 electric distribution or transmission lines. Shade or accent trees shall be provided as
2479 follows:
2480
- 2481 (a) Except as provided below, one canopy tree for each 30 linear feet of frontage is
2482 required. If the calculations yield a fractional number, that number shall be rounded
2483 up to the next highest whole number. Trees may be placed in any arrangement within
2484 the landscape strip provided that the spacing between tree trunks is no greater than
2485 60 feet.
- 2486 (b) In locations where an adequate separation distance from overhead distribution or
2487 transmission lines, as specified in Table 1, § 5.2.7., is not available, two accent trees
2488 may be substituted for any shade tree required for each 30 linear feet of frontage.
2489
- 2490 c. Ingress and egress from the public right-of-way through all such landscaping to off-street
2491 parking or other vehicular use areas shall be permitted and may be subtracted from the linear
2492 dimension used to determine the number of trees and shrubs required.
2493
- 2494 d. Landscaping required under this section shall not supersede visibility requirements at the
2495 intersection of roads, and ingress/egress lanes as required in Article III, § 3.7., Visibility
2496 Triangles.
2497
- 2498 3. Off-street parking and vehicle use areas. The provisions of this section apply to all new off-street
2499 parking or other vehicular use areas not situated directly beneath a building containing habitable
2500 space.
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- 2502 a. Protection of landscaped areas from vehicular encroachment. When a landscaped area abuts
2503 or is within an off-street parking or vehicular use area, wheel stops or curbing shall be used
2504 to protect landscaped areas from encroachment. The placement of shrubs and trees shall be
2505 in accordance with the Parking Lot Standards of the City of Cape Coral Engineering Design
2506 Standards.
2507
- 2508 b. Except in the South Cape District, landscaping for sites with both of the following: 1) an average
2509 depth less than or equal to 135 feet and 2) an area less than or equal to one acre. All off-street
2510 parking areas shall be landscaped to provide visual relief and cooling effects and to define
2511 logical areas for pedestrian and vehicular circulation, as follows:
2512

- 2513 i. Minimum landscaped area. Landscaped areas including, but not limited to, landscaped
2514 islands, foundation landscaping, and landscaping within divider medians shall equal or
2515 exceed a minimum of 5% of the total off-street parking and vehicle use areas.
2516 ii. Tree planting. At least one canopy tree shall be provided for every 150 square feet of
2517 required planting area. Palm trees may be substituted for canopy trees in accordance with
2518 this Chapter.
2519 iii. Divider medians. Where canopy trees are planted in divider medians, the minimum width
2520 of the divider median shall be nine feet.
2521 iv. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing
2522 ten or more parking spaces shall be terminated by a landscaped area at each end that
2523 measures not less than five feet in width and not less than 15 feet in length. No trees shall
2524 be planted in landscaped islands less than nine feet in width.
2525



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2528
- 2529 c. Except in the South Cape District, landscaping for sites with either of the following: 1) an
2530 average depth greater than 135 feet; or 2) an area greater than one acre. All off-street parking
2531 areas shall be landscaped to provide visual relief and cooling effects and to define logical areas
2532 for pedestrian and vehicular circulation, as follows:
2533
- 2534 i. Minimum landscaped area. Landscaped areas including landscaped islands, foundation
2535 landscaping, and landscaping within divider medians shall equal or exceed a minimum of
2536 10% of the total paved surface area. Landscaped areas reserved for future parking spaces
2537 may not be included in this calculation.
2538 ii. Tree planting.
2539
- 2540 (1) At least one canopy tree shall be provided for every 150 square feet of required
2541 planting area. Palm trees may be substituted for canopy trees in accordance with this
2542 Chapter.

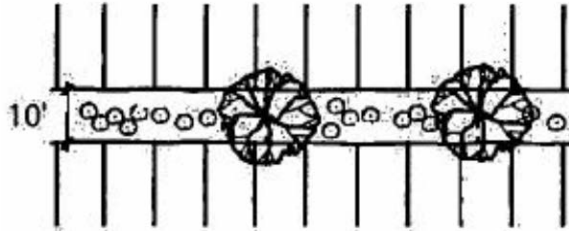
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2543 (2) No parking space may be more than 100 feet from a tree.

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2545 iii. Divider medians. If a divider median is used to meet the landscaping requirements, it shall
2546 be a minimum width of nine feet.

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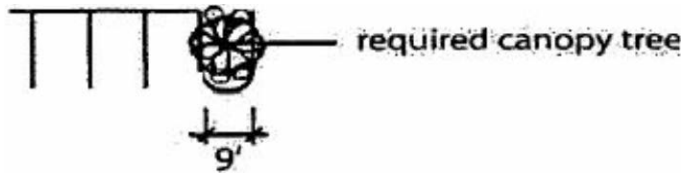


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2550 iv. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing
2551 ten or more parking spaces shall be terminated by a landscaped area that measures not
2552 less than nine feet in width and not less than 15 feet in length. Each such landscaped area
2553 shall be planted with at least one canopy tree. Palm trees may be substituted for canopy
2554 trees in accordance with this Chapter.

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2558 v. Landscape materials. All interior landscaped areas not dedicated to trees or to
2559 preservation of existing vegetation shall be landscaped with grass, groundcover, shrubs
2560 or other approved landscaping materials and this shall be noted on the landscape plans.

2561

2562 d. Landscaping for sites in the South Cape District. Except within city dedicated parking areas, all
2563 off-street parking areas and applicable off-street parking area setbacks shall be landscaped to
2564 provide visual relief and cooling effects and to define logical areas for pedestrian and
2565 vehicular circulation, as follows:

2566

2567 i. Minimum landscaped area.

2568

2569 (1) Unless otherwise provided herein, all required landscape areas shall be planted with
2570 trees, shrubs, groundcover, sod, or any combination thereof. At a minimum, the
2571 landscape area(s) shall include low-lying shrubs or ground cover plants with a
2572 minimum 50% coverage of the landscape area at time of planting. When utilized,
2573 shrubs shall be planted at no more than three feet on center.

2574 (2) All applicable minimum off-street parking area setbacks required by Article 4, Chapter
2575 5, except rear when abutting an alley, shall be landscaped unless otherwise provided
2576 herein. This provision shall not apply to portions of setbacks areas utilized for shared
2577 curb cuts, joint driveways and shared off-street parking areas across lot lines.

2578 (3) Ingress and egress from the right-of-way through any setback area is permitted and
2579 the width of the ingress and egress may be subtracted from required landscape areas.

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- ii. Landscaping for lots with a lot frontage greater than or equal to 125 feet. Off-street parking areas containing 24 or more parking spaces shall provide a landscaped area that measures not less than nine feet in width and not less than 15 feet in length for every 12 parking spaces. Such landscaped area(s) shall be located as intermediate within or terminal islands to parking space rows. Each such landscaped area shall be planted with at least one canopy tree and groundcovers or sod.
4. Retention/detention areas.
- a. Planting of trees, palm trees, shrubs, and groundcovers in retention/detention areas is encouraged, provided that the placement does not conflict with the volume of storage required for the retention/detention areas and does not significantly interfere with or impede the flow of runoff in the retention/detention area.
 - b. All retention/detention areas shall be stabilized with sod or other groundcover capable of stabilizing the soil. Organic mulch is not allowed.
5. Buffers.
- a. Determination of required buffer. Landscape buffer and screening shall be required to separate uses of differing zoning districts from each other. The type and width of buffer required shall be determined by using Table 5.5.13.B: Table of Minimum Buffer Requirements. If the developing property contains a non-residential use in a Residential District, the buffer shall be as indicated along the row labeled "Non-Residential Uses in Residential Districts"; otherwise, the buffer required shall be as indicated along the row of the developing property's zoning district under the applicable column. The buffer that is required along any segment of property line, if any, is dependent on the zoning of the abutting property and property separated by only a street containing not more than two lanes for motor vehicle traffic. A bicycle "lane" shall not be considered to be a lane for motor vehicle traffic. The specifications for each type of buffer are provided in Table 5.5.13.B.

TABLE 5.5.13.B MINIMUM BUFFER WIDTH With wall/Without wall										
DEVELOPING PROPERTY	ZONING	ABUTTING PROPERTY								
		R1, RE	RML	RMM	C	CC	P	I	INST	SC, MXB
	R-1, RE	X	X	X	X	X	X	X	X	X
	RML	5	X	X	X	X	X	X	X	X
	RMM	10 / 20	5	X	X	X	X	X	X	X
	C	10 / 20	10 / 15	10 / 15	X	X	X	X	X	X
	CC	10 / 20	10 / 15	10 / 15	X	X	X	X	X	X
	P	5	5	5	X	X	X	X	X	X
	I	40 wall	40	40	10 / 20	10 / 20	30	X	X	X
	INST	10 / 20	10 / 20	10 / 20	X	X	X	X	X	X

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	SC, MXB	5	5	5	X	X	X	X	X	X

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- b. Buffer specifications.
- i. The standards for minimum width, plant types and quantities, and opaque features shall be in accordance with Table 5.5.13.B: Minimum Buffer Width and Table 5.5.13 C, Buffer Plantings. All plants provided within a buffer are specific to, and must be located within the buffer area. The buffer landscaping is in addition to other landscaping required by this Chapter and this landscaping must be within the buffer area. For buffer options that include a wall, the wall must conform to the standards of Article 5, Chapter 2, including the setback requirements.
 - ii. The buffer width shall be measured along a line perpendicular or radial to the property line.
 - iii. The number of each type of plant required shall be determined by dividing the length of each side of the property requiring a given type of buffer by 100 and multiplied by the number of plants per 100 feet indicated for a selected option. If the calculations yield a fractional number, that number shall be rounded up to the next highest whole number.
 - iv. If a wall is required, the wall shall extend the entire length of the property line, or until it connects to another wall.
 - v. Ingress and egress from the right-of-way through any buffer shall be avoided; however, where it is determined by the city that avoidance is impractical or not preferable due to traffic flow or safety considerations, penetration through a buffer to ingress and egress from the right-of-way may be permitted and the width of the ingress and egress can be subtracted from the length of the buffer for the calculation of the number of plants required.
 - vi. Plants, berms, or walls required for buffers within required sight triangles shall be in accordance with standards provided in Article 5, Section 1. Further, no fence, wall, or plant material shall be placed within a buffer that would impede the movement of or obstruct the view of either a pedestrian or driver of a vehicle that would create a potential safety hazard.

TABLE 5.5.13 C: - BUFFER PLANTINGS											
Plants per 100 Linear Feet - Canopy/Accent/Shrub											
DEVELOPING PROPERTY	ZONING	ABUTTING PROPERTY									
		R-1, RE	RML	RMM	C	CC	P	INST	I	SC, MXB	
	R-1, RE	X	X	X	X	X	X		X		
	RML	4/0/33	X	X	X	X	X		X		
	RMM	5/5/66	4/0/33	X	X	X	X	X		X	
		5/3/33 w/ wall									
	5/5/66	5/5/66	5/5/66	X	X	X		X			

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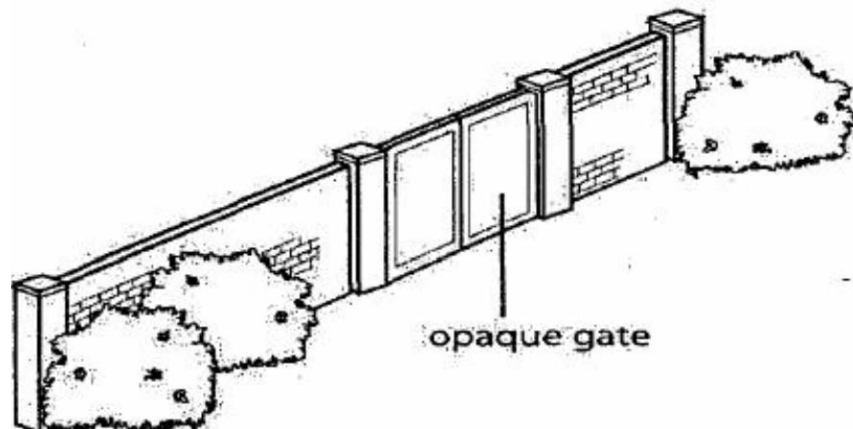
C	5/3/33 w/ wall	3/2/33 w/ wall	3/2/33 w/ wall						
CC	5/5/66	5/4/33	5/2/66						
	5/3/33 w/ wall	3/2/66 w/ wall	5/4/32	X	X	X		X	
P	3/2/33	4/0/33	4/0/33	X	X	X		X	
I	9/4/80 w/ wall	8/6/48	8/6/48	5/5/66	5/5/66	10/8/		X	
		5/3/66 w/ wall	5/3/66 w/ wall	5/3/33 w/ wall	5/3/33 w/ wall	64			
INST	5/5/66 5/3/33	5/5/66 5/3/33	5/5/66 5/3/33	X	X	X		X	
SC, MX	4/0/33	4/0/33	4/0/33						

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- c. Buffer requirements. No development within required buffer. Required buffer shall not contain any development other than drainage facilities, sidewalks, plants, walls, or berms. Driveways shall only be allowed in the required buffer if the buffer runs along a street. No grading, development, or land-disturbing activities shall occur within the buffer unless as part of an approved development or landscape plan.
- d. Buffer maintenance.
 - i. Any landscape buffer required pursuant to this section shall be maintained in order to preserve such buffer.
 - ii. The plantings, walls, and berms that constitute screening for any buffer required pursuant to this section shall be maintained for the life of the development. Such maintenance shall include all actions necessary to keep the buffer free of litter and debris, and to keep plantings, walls, and berms in good repair and neat appearance.
 - iii. In the event that any buffer screening or any element thereof, is damaged or fails to live so that it no longer furthers the purpose and intent of this section, it shall be replanted or replaced, whichever is applicable, with the type and size of material specified on the landscape plan.
- e. Plant and tree arrangement. Required plants and trees shall be distributed in a manner to meet the intent of screening incompatible uses. In the event that plant materials are prohibited in a public drainage or utility easement which abuts or is coincident with a buffer, no new plant materials shall be centered closer than two feet from such easement.
- f. Existing vegetation.
 - i. Retaining existing Florida native trees and other vegetation within a buffer is strongly encouraged.
 - ii. If existing plants do not fully meet the standards for the type of buffer required, additional plant materials shall be installed.
- g. Buffer walls and berms.
 - i. Whenever a wall is required within a buffer, it is shown in Table 5.5.13.B.

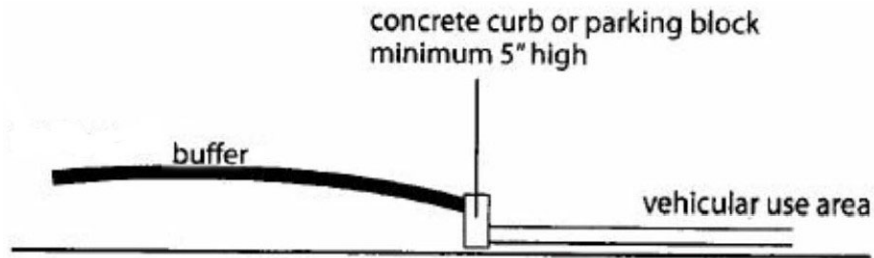
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- 2677 ii. Where the buffer requires a berm, the berm shall be graded to appear smooth, rounded,
2678 and natural. Slopes shall not exceed a 3:1 grade.
- 2679 iii. Whenever a wall is required within a buffer, the wall shall conform to all requirements of
2680 Article 5 Section 2, and the requirements herein, and all other requirements for a wall.
2681 The wall may be placed anywhere in the buffer, provided at least 75% of the required
2682 trees and 100% of the required shrubs are on the side facing outward toward the right-
2683 of-way or abutting property (facing away from the property on which the wall is erected).
2684 Bare concrete block, even if painted, is prohibited. The following materials, either singly
2685 or in any combination, are the only materials that may be used to form the wall:
2686
- 2687 (a) Concrete block coated with stucco;
 - 2688 (b) Textured concrete block;
 - 2689 (c) Stone;
 - 2690 (d) Brick; or
 - 2691 (e) Formed, decorative, or precast concrete.
- 2692
- 2693 iv. Whenever a wall is required within a buffer, it shall be 100% opaque and shall be the
2694 maximum height allowed for the use and the location of the wall.
- 2695
- 2696 h. Gates. A gate may be allowed in a buffer wall, provided such gate is opaque, unless spanning
2697 a vehicular entrance, and meets the intent and purpose of this section. Gates shall be
2698 maintained in accordance with the maintenance standards for screening contained in this
2699 section.



- 2700
- 2701
- 2702 i. Staggered walls. Whenever a wall is required within a buffer, it may be divided along the
2703 length of a buffer so that a wall consists of a series of wall segments instead of a continuous
2704 line. Such a divided wall shall be allowed only if it meets the intent and purpose of this section
2705 and if the wall segments overlap by a minimum of one-half of the distance between the two
2706 wall segments.
- 2707
- 2708 j. Vehicular use areas. Concrete curbs or wheel stops at least five inches high shall be provided
2709 between vehicular use areas and buffer areas.
- 2710

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3. Location of buffer.

- a. The landscape buffer required by this section shall be located along the perimeter of a property except at approved entrances or exits to the parcel.
- b. Buffers shall extend to the lot line or right-of-way line, except where easements, covenants, visibility triangles, or natural features require the buffer to be set back from the property line. The presence of an easement, covenant, or natural feature does not necessarily preclude the placement of a buffer, unless due to the nature of the easement, covenant, or natural feature the placement of a buffer would be precluded.
- c. Nothing other than open landscaped areas shall be located between the required buffer and the site perimeter unless the presence of an easement, covenant, or natural feature, which due to its nature, would preclude open landscaped areas.
- d. Buffers may not be located on any portion of an existing or dedicated street right-of-way or roadway easement.

Section 5.5.14. Irrigation.

All landscaping shall contain an automatic irrigation system. All required irrigation systems shall be designed to minimize the application of water to impervious areas, including roads, drives, and other vehicle areas. Required irrigation shall also be designed to avoid damage to existing native vegetation from over watering or from physical conflicts with plant roots. The following standards shall apply to the design, installation, and maintenance of irrigation systems:

- A. The irrigation system shall be properly maintained and operated consistent with watering schedules established by the South Florida Water Management District or the City of Cape Coral, whichever is more restrictive.
- B. Existing native plants are exempt from this requirement.
- C. Automatic control systems shall be equipped with an operable rain sensor or other devices, such as soil moisture sensors, to prevent unnecessary irrigation.

Section 5.5.15. Tree credits.

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- 2750 A. Tree credits for all development other than single-family homes and duplexes are available, to
2751 encourage the planting of larger trees than are otherwise required and to preserve trees existing on
2752 development sites. Based on the gross square feet of land area, each tree credit earned can count
2753 toward the number of trees required, subject to limitations indicated below. If tree credits are used,
2754 the credits shall be shown in the calculations on the landscape plan. Single-family homes and duplexes
2755 are not eligible for the tree credit program provided by this subsection. In no event, shall the number
2756 of trees required in a buffer be reduced.
2757
- 2758 B. Credit for planting larger canopy trees. One tree credit shall be applied to the overall tree count for
2759 each two inches of increased caliper above the minimum planting size specified in this Chapter. In no
2760 event, however, shall the actual number of trees be less than one-half of the total number required.
2761
- 2762 C. Credit for preserving existing canopy trees. Existing canopy trees in good health and meeting the
2763 minimum standards provided in this Chapter that are preserved on a site, and that are properly
2764 protected prior to and during the course of development activities, may be used to meet the
2765 requirements of this section for the site where the existing trees are located. For purposes of this
2766 subsection, development activities include land clearing, construction, grading, or placement of fill.
2767 Canopy trees that exceed the minimum size required by Article 5, Section 15 are credited at the
2768 following ratios for existing canopy trees:
2769

TABLE 5.5.13.D: CREDIT FOR PRESERVING EXISTING CANOPY TREES	
CREDITS	
1.	6" up to 12" caliper = credit for 2 trees
2.	12" up to 18" caliper = credit for 3 trees
3.	18" up to 24" caliper = credit for 4 trees
4.	24" or greater caliper = credit for 5 trees

- 2770
2771 No credit shall be given to canopy trees on the Florida Exotic Pest Plant Council list of Category I or
2772 Category II invasive exotics.
2773
- 2774 D. Credit for preserving existing palms. Existing palm trees in good health and having a minimum of ten
2775 feet of clear trunk that are preserved on a site and properly protected prior to and during the course
2776 of development activities, may be used to meet the requirements of this section for the site where
2777 the existing palm trees are located. This credit shall be available for palms preserved in place or
2778 transplanted within a site, using accepted horticultural procedures.
2779

Section 5.5.16. Landscape maintenance.

- 2780
2781
- 2782 A. General maintenance required. The property owner shall maintain all landscaping in accordance with
2783 the approved landscape plan, if any, and with the standards contained in this section, including:
2784
- 2785 1. Trees, palm trees, shrubs, and other vegetation shall be trimmed so as to not be an obstruction
2786 to pedestrian or vehicular traffic or traffic visibility;
2787

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- 2788 2. Trees, palm trees, shrubs, and tree bed(s) shall be kept free of refuse, debris, and disease;
2789
2790 3. Nonliving materials shall be maintained in good condition at all times.; and
2791
2792 4. Shrubs planted in non-residential and mixed-use developments shall grow and be maintained at
2793 all times according to the minimum size specified on the approved landscape plan or to a
2794 minimum height of 36 inches, if not specified on the approved landscape plan. Shrubs that do not
2795 meet the minimum height specified or the alternate minimum height of 36 inches shall be
2796 replaced with like kind species and be maintained at a height of 36 inches.
2797

2798 This requirement shall not preclude the placement of additional plant materials or other landscape
2799 features that comply with other requirements of these regulations.
2800

- 2801 B. Compliance required. For any development for which a landscape plan was submitted, the city shall
2802 not issue a certificate of occupancy or certificate of completion until the landscape architect or other
2803 licensed professional authorized pursuant to F.S. Chapter 481, Part II, who prepared, signed, and
2804 sealed the plan certifies to the city that all elements of the landscape plan have been installed in
2805 accordance with the approved plan. Each development will be inspected by the City of Cape Coral
2806 within two years after the certificate of occupancy or certificate of completion is issued, and from
2807 time to time thereafter to ensure compliance with the applicable landscape standards and with the
2808 approved landscape plan, if any. Any dead or missing plant, or plant that appears to be dying or unable
2809 to sustain healthy future growth shall be replaced by one that conforms to the requirements of this
2810 section and approved landscape plan, if any. Failure to comply with this requirement shall constitute
2811 a violation of the City of Cape Coral Code of Ordinances, subject to any penalty imposed by law.
2812

- 2813 C. Changes subsequent to landscape plan approval. The replacement of plants indicated on an approved
2814 landscape plan with plants of the same species, or the placement of hardscape features that comply
2815 with other requirements of these regulations shall not require the submission of an amended
2816 landscape plan. The substitution of plants indicated on an approved landscape plan with plants of an
2817 alternative species of the same size and plant category (canopy tree, accent tree, palm tree, shrub)
2818 shall not require the submission of an amended landscape plan, unless a specific species has been
2819 prescribed as a condition of approval by the Hearing Examiner or City Council; however, any such
2820 substitution shall meet all other landscape requirements, including the minimum separation distance
2821 between trees and overhead power lines, the Florida native plant percentage, the tree species mix,
2822 and species specific palm tree substitution requirements. Except as described above, after a landscape
2823 plan has been approved, it shall be unlawful to change, modify, alter, or otherwise deviate from the
2824 terms or conditions of the landscape plan without first obtaining written approval of an amendment
2825 to the landscape plan. The approval of an amendment to a landscape plan does not constitute an
2826 amendment to the site plan. Modifications that require approval of an amended landscape plan
2827 include:
2828

- 2829 1. Replacement of any plant indicated on an approved landscape plan with a plant of a different
2830 species; or
2831
2832 2. The reduction of any quantity or size of plants below the size that was indicated on the most
2833 recently approved landscape plan.

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2834
2835 The city may impose a reasonable fee for the review and approval of an application for an amendment
2836 to a landscape plan. An application for an amendment to a landscape plan shall be reviewed in
2837 accordance with the standards herein, unless the landscaped area is a legal nonconformity. An
2838 application for an amendment to a nonconforming landscaped area shall be reviewed in accordance
2839 with Article 5, Section 6.

2840
2841 D. Nonconforming landscaped areas.

2842
2843 1. Legal nonconforming landscaped areas established. All landscaped areas which were lawful prior
2844 to the adoption of this Code but which fail by reason of adoption of such amendment to comply
2845 therewith, are hereby declared to be nonconforming. Such nonconforming landscaped areas are
2846 hereby declared to be lawful and shall not be required to be altered to conform with such
2847 regulations as adopted by the City of Cape Coral; provided, however, that such nonconforming
2848 landscaped areas are restricted and subject to the requirements of this section.

2849
2850 2. Requirements for nonconforming landscaped areas.

2851
2852 a. For sites with an approved landscape plan, nonconforming landscaped areas, including
2853 buffers, shall be maintained in accordance with approved landscape plans, as modified by
2854 requirements of any approval for PUD, PDP, special exception, or variance, if any. If the
2855 minimum requirements for landscaping are reduced subsequent to the most recently
2856 approved landscape plan, the property owner may request approval of an amended
2857 landscape plan meeting the minimum requirements pursuant to Article 5, Section 6.

2858
2859 b. For single-family and duplex sites, nonconforming landscaped areas shall be maintained in
2860 accordance with landscape regulations in effect at the time of issuance of the original building
2861 permit for the primary structure.

2862
2863 c. For sites without an approved landscape plan, other than single-family and duplex sites,
2864 nonconforming landscaped areas shall be maintained in accordance with landscape
2865 regulations in effect at the time of the most recent site plan approval.

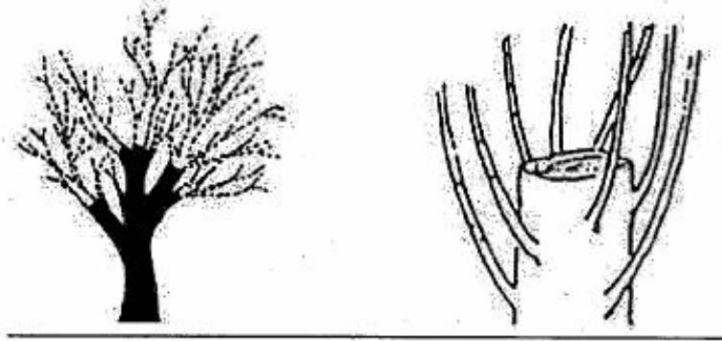
2866
2867 E. Canopy tree pruning.

2868
2869 1. Except as otherwise provided herein, trees required by regulations in effect at the time of site
2870 development shall only be pruned to promote healthy, uniform, natural growth, to keep trees
2871 trimmed back from doors, windows, and public sidewalks or where necessary to promote health,
2872 safety, and welfare. Pruning shall be in accordance with "American National Standard for Tree
2873 Care Operations - Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices (Pruning)
2874 (A300, Part 1)" by the American National Standard Institute and "Best Management Practices:
2875 Tree Pruning" by the International Society of Arboriculture (ISA). Pruning of trees on any site over
2876 one acre should be supervised by a certified arborist. Pruning necessary to maintain public
2877 overhead utilities shall be in accordance with the National Electric Safety Code (NESC).

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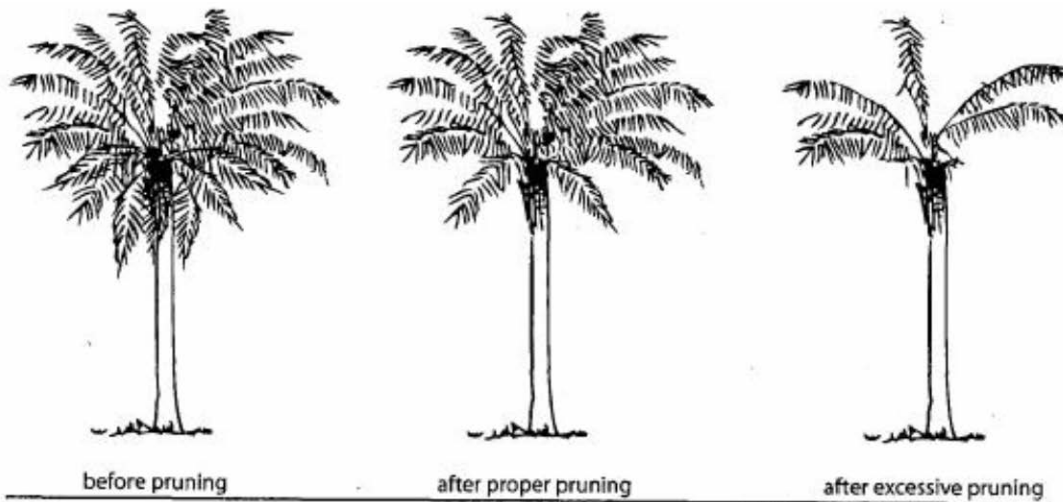
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2879 2. Trees required by regulations in effect at the time of site development shall not be pruned so as
2880 to include topping of trees through removal of crown material or the central leader, or any other
2881 similar procedure to permanently limit growth to a reduced height or spread or that cause
2882 irreparable harm to the natural form of the tree, except where such procedures are necessary to
2883 maintain public overhead utilities. Severely pruned trees required by regulations in effect at the
2884 time of site development must be replaced by the property owner. Replacement trees must meet
2885 the tree size requirements of this Chapter. A tree's growth habit shall be considered in advance
2886 of conflicts that might arise (e.g., signs, power lines, sidewalks, buildings, and similar conflicts).
2887



2888
2889
2890 Excessively pruned trees.

2891
2892 3. Palm maintenance and pruning. Palms shall only be pruned in such a manner that removal of
2893 fronds does not exceed a 9:00 to 3:00 pattern and no more than one-half of the fronds are
2894 removed at a single time. This limitation shall not apply to flower stalks or fronds that are yellow
2895 or dead.
2896



2897
2898
2899 **Section 5.5.17. Planting in medians.**

2900
2901 A. Permits.
2902

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- 2903 1. Required. It shall be unlawful for any person to place any landscape material, including plant
2904 materials and hardscape materials other than mulch, in any median under the control of the city,
2905 without first obtaining a permit for such work from the City.
2906
- 2907 2. Application. An application for a permit shall be submitted on a form provided by the city and
2908 include all required information as specified in the permit application forms.
2909
- 2910 B. Median design. Landscaping in medians shall be in accordance with the City of Cape Coral Engineering
2911 Design Standards.
2912
- 2913 C. Prohibited vegetation. The prohibited vegetation standards of section 9 of this article shall apply in
2914 medians.
2915
- 2916 D. Review criteria. In determining whether a permit will be issued, the city shall consider factors that
2917 include, but are not limited to, the following:
2918
- 2919 1. Relationship to traffic and pedestrian safety;
2920
- 2921 2. Location of existing and proposed public utilities, power lines, and other right-of-way
2922 improvements;
2923
- 2924 3. Effect on surface waters and drainage patterns;
2925
- 2926 4. Aesthetic effect of the proposed landscaping, including whether the resultant theme would be
2927 consistent throughout the specific median, and whether the proposed landscaping would
2928 coordinate with the landscape theme, if any, established in the vicinity;
2929
- 2930 5. Type, size, and location of any extant plant materials and hardscape materials, if any;
2931
- 2932 6. Type, size, and location of proposed plant materials and hardscape materials on the median;
2933
- 2934 7. Method of removal of existing plant materials and hardscape materials;
2935
- 2936 8. Adequacy of proposed irrigation, its expense to the city, and availability of water supply; and
2937
- 2938 9. The city's ability to maintain the landscaping in the event that the permittee fails to do so including
2939 economic ability, manpower, and location of the median.
2940
- 2941 E. Approval.
2942
- 2943 1. In its approval of any permit request, the city may impose conditions, which may include one or
2944 more of the following:
2945
- 2946 a. Modifications to the planting plan, including but not limited to the design to ensure
2947 integration with the aesthetic character of the neighborhood, the requirement that the entire

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- 2948 median be included in the design, as well as to plant sizes, species, location, and nature
2949 placement of hardscape materials;
- 2950
- 2951 b. Modification of plant installation or removal methods or specifications;
- 2952
- 2953 c. Regulation of the commencement and completion date, work hours, or phasing of installation
2954 or removal;
- 2955
- 2956 d. Modification to the proposed maintenance schedule;
- 2957
- 2958 e. Requirement of a financial instrument to ensure maintenance or removal of the landscaping;
- 2959
- 2960 f. Requirement that all or part of the landscaping be installed and maintained by a licensed
2961 landscape contractor or certified arborist;
- 2962
- 2963 g. Requirement that temporary traffic control measures be implemented by a barricade
2964 company with certification by the American Traffic Safety Services Association (ATSSA) or the
2965 International Municipal Signal Association (IMSA);
- 2966
- 2967 h. Requirement that curbing be installed;
- 2968
- 2969 i. Requirement that erosion control measures be implemented; and
- 2970
- 2971 j. Submission of a hold harmless agreement acceptable to the city.
- 2972
- 2973 2. The permittee shall be responsible for compliance with the permit and any associated conditions,
2974 along with the maintenance of the landscaping. The limitation on the time period for installing
2975 landscape materials shall not apply to replacement of materials as part of maintenance.
- 2976
- 2977 3. Approval of a permit to install landscape materials in a median shall not obviate the requirement
2978 to obtain all other necessary permits, including permits for irrigation and signs.
- 2979
- 2980 F. Changes subsequent to approval. After a planting plan has been approved, it shall be unlawful to
2981 change, modify, alter, or otherwise deviate from the terms or conditions of the planting plan without
2982 first obtaining written approval of an amendment to the planting plan. Modifications that require
2983 approval of an amended landscape plan include the following:
- 2984
- 2985 1. Replacement of any plant indicated on an approved planting plan with a plant of a different
2986 species; or
- 2987
- 2988 2. Modification of the location of any plants or other landscape materials.
- 2989
- 2990 The city may impose a reasonable fee for the review and approval of an application for an
2991 amendment to a planting plan. An application for an amendment shall be reviewed in accordance
2992 with the standards herein. The replacement of plants indicated on an approved landscape plan
2993 with plants of the same species shall not require the submission of an amended landscape plan.

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- G. Permit expiration and extension. A permit for installing landscape materials in any median under the control of the city shall be valid for a one-year period from the date of issuance, except as otherwise provided within the permit approval. The permittee is solely responsible for submitting an application for renewal of the. In determining whether the permit should be renewed, the city shall consider all of the factors listed in subsection D. above, as well as the condition in which any materials planted pursuant to the permit have been maintained.

- H. Maintenance. Once any landscape materials are installed in a median, the materials are the property of the city. Except when the city determines that it is in its best interest to maintain portions of landscaping in medians permitted in accordance with this subsection, the permittee shall be responsible for maintaining any and all landscaping permitted by this subsection in accordance with Section 16 of this chapter. Should any plant material or other landscape material or portion thereof become a safety hazard, unsightly, or die or become diseased, or if it is installed or maintained in a manner inconsistent with the permitting requirements herein, the city shall have the option of performing maintenance, replacing, or removing it. The City will determine compliance with this subsection.

- I. Removal.
 - 1. The authorization in this section for the removal of landscaping in medians shall be construed as supplementary to any other means of enforcement available to the city and shall not be construed so as to negate the authority of the Code Enforcement Special Magistrate to hear and adjudicate appropriate cases.

 - 2. The city may also, in its sole discretion, remove any landscape materials placed in any median under the city's control, for utility maintenance, safety, or any other reason.

- J. Revocation. If any condition of approval is not satisfied, the city may revoke or stop work on any permit issued pursuant to this subsection.

Section 5.5.18. Cul-de-sac or roundabout landscaping.

- A. Permit required. It shall be unlawful for any person to place any landscape materials in any cul-de-sac or roundabout under the control of the city, without first obtaining a permit for such work from the City.

- B. Planting design and materials. Permits shall be issued only for the planting of approved trees or shrubs on cul-de-sac or roundabout. Such plantings on cul-de-sac or roundabout shall be in accordance with the City of Cape Coral Engineering Design Standards.
 - 1. Trees. All trees to be planted in a cul-de-sac or roundabout shall be of at least ten-gallon size at the time of planting. The following trees are: Mahogany, Wild Tamarind, Yellow or Pink Tabebuia, Buttonwood, Crepe Myrtle, Gumbo Limbo, Southern Magnolia, Paradise tree, Pigeon Plum, Sago Palm, or Pygmy Date Palm. However, other types of trees may be permitted providing the criteria

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- 3039 established in this section are met. The prohibited vegetation standards of this Chapter shall apply
3040 in cul-de-sac and roundabout.
3041
- 3042 2. Shrubs. Shrubs to be planted should be durable in harsh conditions with slow, unobtrusive growth
3043 habits. All shrubs shall be of at least three-gallon size at the time of planting. The following shrubs
3044 are recommended for planting: Carissa, Cocoplum, Yaupon Holly, Myrsine, Necklace Pod,
3045 Podocarpus, and Wax Myrtle. However, other types of shrubs may be permitted providing the
3046 criteria established in this section are met.
3047
- 3048 3. Other vegetation. The planting of flowers or any vegetation (other than approved trees or shrubs)
3049 by any private person or entity on cul-de-sac or roundabout owned by the city is prohibited. In
3050 addition, cul-de-sac or roundabout shall be left in sod. However, a small bed immediately
3051 surrounding a tree or shrub may be mulched.
3052
- 3053 C. Plan submittal. Prior to the issuance of a permit for planting and prior to the planting of any tree or
3054 shrub on any cul-de-sac or roundabout, a planting plan shall be submitted for review to the City. The
3055 planting plan shall include all pertinent dimensions, source of water supply to landscape materials,
3056 and the proposed location of the trees or shrubs, with the species of tree or shrub by name.
3057
- 3058 D. Approval criteria. In determining whether a permit will be issued, the city shall consider the following
3059 criteria:
3060
- 3061 1. The location of existing and proposed public utilities and power lines;
3062
- 3063 2. Vehicular use areas and intersecting streets;
3064
- 3065 3. Diversion of surface waters or drainage patterns;
3066
- 3067 4. Relationship to and effects on traffic safety;
3068
- 3069 5. Type and location of trees or shrubs to be planted; and
3070
- 3071 6. Type and location of any extant trees, palm trees, shrubs, or other vegetation on the cul-de-sac
3072 or roundabout.
3073
- 3074 E. Permit expiration and renewal. A permit for planting trees or shrubs on a cul-de-sac or roundabout
3075 shall be valid for a period of one year from the date of issuance. At the expiration of such one-year
3076 period, the permit shall automatically expire unless renewed in accordance with the provisions of this
3077 section. The permittee shall be solely responsible for submitting an application for renewal of the
3078 permit. In determining whether the permit should be renewed, the city shall consider all of the criteria
3079 listed above as well as the existing condition of the trees or shrubs planted.
3080
- 3081 F. Maintenance. Once any landscape materials are installed, the materials are the property of the city.
3082 The person or entity to which the permit for planting is issued shall be responsible for maintaining
3083 any and all trees or shrubs in good condition so as to present a healthy, neat, and orderly appearance
3084 for keeping such trees or shrubs free of refuse, debris, and disease. Failure to maintain such trees or

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3085 shrubs in accordance with this provision shall be grounds not only for denial of a renewal or revocation
3086 of the planting permit, but also shall be grounds for removal by the city of the trees or shrubs planted.
3087

3088 G. Removal. Any landscape materials planted or installed without the express written permission of the
3089 city shall be subject to removal by the city in its sole discretion. Except for the city and persons with a
3090 permit or other written authorization from the city, no person shall remove landscape materials from
3091 a cul-de-sac or roundabout.
3092

3093 **Section 5.5.19. Lateral right-of-way planting.**
3094

3095 A. No permit required. Except in the South Cape Downtown district, no permit shall be required for a
3096 private person or entity who owns the property abutting the city-owned lateral right-of-way to plant
3097 trees and shrubs in the city-owned lateral right-of-way.
3098

3099 B. Placement of planting material. In the South Cape Downtown District, in order to provide a cohesive
3100 urban streetscape, applicants may enter into an agreement with the city for placement of planting
3101 material in the lateral right-of-way. In all other districts, the planting of trees, palm trees, and shrubs,
3102 and the placement of the tree bed(s) shall be allowed in the city-owned lateral right-of-way subject
3103 to the following restrictions:
3104

3105 1. Planting near utility infrastructure shall be in accordance with the requirements of Section 7 of
3106 this article;
3107

3108 2. One or more trees may be immediately surrounded by a bed consisting of landscape edging
3109 materials, bedding plants or groundcover, and mulch or decorative rock so long as the size of the
3110 bed is reasonably related to the size and number of trees contained therein. Groundcover or
3111 annual bedding plants shall be permitted within the tree bed. Unless otherwise permitted, no
3112 other landscape edging material, concrete curbing, bedding plant or groundcover, mulch, or
3113 decorative rock shall be allowed in the city-owned lateral right-of-way;
3114

3115 3. The property owner abutting the portion of the lateral right-of-way in which the plantings and the
3116 tree bed(s) are placed shall be responsible for any and all costs incurred by the city for damage
3117 sustained to any underground utility facilities as a result of said plantings or placement of the tree
3118 bed(s), and shall indemnify and hold the city, its officers, employees, and agents, harmless from
3119 any and all claims for injuries and damages to persons and property, both real and personal
3120 resulting from said plantings or placement of the tree bed(s);
3121

3122 4. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch,
3123 or decorative rock shall be placed in the city-owned lateral right-of-way within five feet of the
3124 roadway. Canopy trees shall not be planted within seven feet of any roadway, sidewalk or public
3125 utility, unless an acceptable root barrier material, installed in accordance with this Chapter.
3126

3127 5. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch,
3128 or decorative rock shall be placed in the city-owned lateral right-of-way:

3129 i. Within five feet of either side property boundaries, as measured perpendicular from the
3130 side property line;

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- 3131 ii Within three feet of the bottom on the swale in either direction;
3132 iii. Within three feet of a public sidewalk; or
3133 iv. So as to be an obstruction to pedestrian or vehicular traffic or traffic visibility and each
3134 shall be maintained accordingly.
3135

3136 C. Maintenance. Once any landscape materials are installed in a lateral right-of-way, the materials are
3137 the property of the city. The person or entity who owns the property abutting a portion of the lateral
3138 right-of-way along a city street in which the trees, palm trees, shrubs, landscape edging material,
3139 concrete curbing, bedding plants, or groundcover, mulch, or decorative rock have been placed shall
3140 be responsible for the following:

- 3141
3142 1. Maintaining all plantings and tree bed(s) in good condition so as to present a healthy, neat, and
3143 orderly appearance;
3144
3145 2. Trimming such trees, palm trees, shrubs, and tree bed(s) so as to not be an obstruction to
3146 pedestrian or vehicular traffic or traffic visibility; and
3147
3148 3. Keeping such trees, palm trees, shrubs, and tree bed(s) free of refuse, debris, and disease.
3149

3150 Failure to maintain such trees, palm trees, shrubs, and tree bed(s) in accordance with this provision
3151 shall constitute a violation of this section and shall be grounds for removal by the city of the trees,
3152 palm trees, shrubs, and tree bed(s) in the right-of-way.
3153

3154 D. Removal.

- 3155
3156 1. The authorization in this section for the removal of trees, palm trees, shrubs, and tree bed(s) shall
3157 be construed as supplementary to any other means of enforcement available to the city and shall
3158 not be construed so as to negate the authority of the Code Enforcement Special Magistrate to
3159 hear and adjudicate appropriate cases.
3160
3161 2. The city may also, in its sole discretion, remove any trees, palm trees, shrubs, and tree bed(s)
3162 placed in a city-owned lateral right-of-way for utility maintenance, safety, or any other reasonable
3163 cause. Except for the city, persons with written authorization from the city, and the property
3164 owner abutting the portion of the lateral right-of-way in which landscape materials have been
3165 placed, no person shall remove landscape materials from a lateral right-of-way.
3166
3167 3. All expenses incurred by the city for removal trees, palm trees, shrubs, and tree bed(s), for any
3168 reason, shall be the responsibility of the property owner.
3169
3170 4. If, for any reason, such trees, palm trees, shrubs, and tree bed(s) are removed, the adjoining
3171 owner shall be responsible for returning the right-of-way to its original condition prior to the
3172 placement of the plantings and tree bed(s) and any expenses related thereto regardless of
3173 whether the removal of the trees, palm trees, shrubs, and tree bed(s) was performed by the
3174 property owner or the city pursuant to this section.
3175

3176 **Section 5.5.20. Deviations.**

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- A. Deviations from the provisions of this section may be approved by the Director and as further provided herein) provided that the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of this section and where either of the following applies:
 - 1. Conditions exist that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship; or
 - 2. Literal conformity with the regulations would inhibit innovation or creativity in design.

 - B. In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Director shall consider include, but are not limited to, the following: site constraints such as shape, topography, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, and the effect the requested deviation would have on the community appearance. Additionally, the Director shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city.

 - C. In determining whether a particular deviation request should be approved because literal conformity with the regulations would inhibit innovation or creativity in design, the Director may approve the request for deviation(s) if the applicant demonstrates that the design of the landscaping for which one or more deviations is sought is unique and innovative and, further, that the approval of the deviation(s) would enhance such unique and innovative design. Additionally, the Director shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city. For purposes of this section, indicia of unique and innovative design may include, but are not limited to, the following:
 - 1. Landscape details that are unique or that are exceptional in quality by virtue of artistic composition, quality of materials, dimensional attributes, or any combination thereof;
 - 2. Plant massing that evokes exceptional expression through use of angularity, curvature, or other means;
 - 3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
 - 4. Other details or forms that preclude visual monotony and are pleasing in aesthetic character.

 - D. Requests for deviations and the reasons therefore shall be set forth by the applicant in the application for deviation and shall be accompanied by documentation including, a narrative that clearly defines the section(s) of the regulations of the requested deviation, a narrative explanation as to the reason for the requested deviation and why it should be approved, sample detail drawings, elevations, and perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the benefit, or at least not to the detriment, of the public interest.

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3223 E. For deviations to avoid unnecessary or undue hardship, the Director subject to these standards and
3224 criteria, shall approve only the minimum deviation from the provisions of this section. For deviations
3225 to avoid the inhibition of innovation or creativity in design, the Director shall approve deviations
3226 necessary to enhance the unique and innovative design. The Director may impose reasonable
3227 conditions of approval in conformity with this section. Violation of such conditions and safeguards,
3228 when made a part of the terms under which a deviation is granted, shall be deemed a violation of this
3229 section and shall be enforceable not only by revocation of the deviation, but also by all other remedies
3230 available to the city, including all code enforcement procedures.
3231

3232 **CHAPTER 6. LIGHTING.**

3233
3234 **Section. 5.6.1. Purpose and applicability.**
3235

3236 The purpose and intent of this Section is to create outdoor lighting standards that promote the health,
3237 safety, and welfare of the residents and decrease the impacts of ambient lighting on the natural sky by
3238 establishing maximum intensities of lighting and controlling glare from lighting fixtures. The provisions
3239 of this article shall apply to all permanent outdoor lighting from any light source in nonresidential
3240 development.
3241

3242 **Section. 5.6.2. Outdoor lighting standards.**
3243

- 3244 A. Outdoor lighting fixtures. All outdoor lighting fixtures shall be installed in such a manner that the
3245 source of each individual light is shielded, positioned, and maintained so as not to be visible off the
3246 premises.
3247
- 3248 B. Light shielding for parking lot illumination. All parking lot lighting shall have no light emitted above
3249 90 degrees.
3250
- 3251 C. Outdoor lighting fixtures adjacent to residential. Any outdoor lighting fixture providing light to any
3252 parcel adjacent to a residentially zoned parcel, whether adjoining or not, shall emit no more than
3253 0.1 foot-candles of light, as measured from the property line of the adjacent residential parcel, using
3254 a standard light meter, the cell of which is directed towards the source of the light.
3255
- 3256 D. All areas designed for use after daylight hours shall be adequately lit, in accordance with Table 5.6.2.
3257 below.
3258

3259 **Table 5.6.2. Lighting levels for commercial and industrial developments**
3260

Outdoor Lighting Area	Lighting Level minimum - maximum (foot-candles)
Entrance of commercial or industrial building	1 - 5
Sidewalk or walkway from parking area to entrance	.5 - 2
Parking lot	.5 - 3
Gas station canopy	10 - 15
Loading and unloading areas	15 - 20

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- 3261
3262 E. Illumination ratio. Luminaire fixtures in parking lots shall be arranged in order to provide uniform
3263 illumination throughout the parking lot area of not more than a 4:1 ratio of average to minimum
3264 illumination, and not more than 12:1 ratio of maximum to minimum illumination.
3265
3266 F. Automatic Switching Requirements. Controls shall be provided that automatically extinguish all
3267 outdoor lighting when sufficient daylight is available using a control device or system such as a
3268 photoelectric switch, astronomic time switch, or equivalent functions from a programmable lighting
3269 controller, building automation system, or lighting energy management system, all with battery or
3270 similar backup power or device.
3271
3272 F. Modifications. Additions, modifications, or replacement of more than 25 percent of outdoor lighting
3273 fixtures existing as of the effective date of this ordinance shall require the submission of a complete
3274 inventory and photometric plan detailing all existing and any proposed new outdoor lighting. Any
3275 new lighting shall meet the requirements of this ordinance.
3276
3277 G. Exempt lighting. The provisions above shall not apply to streetlights, single-family residences,
3278 duplexes, or governmental facilities.
3279

3280 **CHAPTER 7. SCREENING**

3281
3282 This Chapter shall not apply to single-family detached or duplex residential development.
3283

3284 **Section. 5.7.1. Screening of rooftop equipment.**

3285
3286 All rooftop equipment shall be screened from view from the right-of-way or adjacent properties by the
3287 use of a parapet wall or other architectural feature to screen the equipment or shall be set back
3288 adequately from the building edge to conceal the equipment from adjacent properties at ground level.
3289

3290 **Section. 5.7.2. Screening of storage areas.**

- 3291
3292 A. All permitted storage areas shall be screened from adjacent properties and the right-of-way.
3293 Permissible screening materials include:
3294
3295 B. A six-foot high wall of concrete or similar approved material, Section. 5.2.7 on walls;
3296
3297 C. A six-foot high opaque fence of an approved material, Section. 5.2.7 fences; or
3298
3299 D. A vegetative buffer, consisting of two staggered rows of shrubs a minimum of three feet tall at
3300 planting. The buffer shall create a dense barrier, at 80% opacity, within two years.
3301

3302 **Section. 5.7.3. Air conditioning units and mechanical equipment.**

- 3303
3304 A. All mechanical equipment at ground level shall be screened from adjacent property and the right-of-
3305 way. When possible, sound deadening materials shall be used. Permissible screening materials
3306 include:

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3307
3308 1. A wall or opaque fence of adequate height to screen the view of the equipment, see Section. 5.2.7
3309 for approved materials.

3310
3311 2. A vegetative buffer, which meets the specifications in Section 5.6 for a four-foot tall buffer.
3312

3313 **Section. 5.7.4. Permanently installed stand-by generators.**

3314
3315 Permanently installed stand-by generators serving all properties other than single-family and duplex
3316 residences where life and safety does not depend on the performance of the system.

3317
3318 A. The generator may only be used in emergency situations when there is a power outage.
3319

3320 B. Repairs and testing may only occur during daylight hours a maximum of once per week.
3321

3322 C. Installation of a generator shall comply with the following restrictions:
3323

3324 1. The generator shall not encroach more than three feet into any required setback, and in no case
3325 shall be any closer than two and one-half feet from any property line. The generator shall not be
3326 installed in an easement.

3327
3328 2. The generator shall be screened from public view by:
3329

3330 a. A vegetative buffer which meets the specifications in Section 5.6 for a five-foot high hedge;
3331 or

3332
3333 b. A wall or opaque fence, of an adequate height to screen the equipment, which meets the
3334 specifications of Section 5.2.7.

3335
3336 3. Permanent signs shall be placed at the electrical service indicating the type and location of the
3337 generator.
3338

3339 **CHAPTER 8. NON-RESIDENTIAL DESIGN STANDARDS.**

3340
3341 **Section 5.8.1. Purpose and Intent.**

3342
3343 The appearance of non-residential and mixed-use development affects the visual image and
3344 attractiveness of the City of Cape Coral. Utilitarian design and developments with minimal architectural
3345 features detract from the city's image and character. The purpose and intent of the non-residential design
3346 standards is to promote the City as an attractive destination for tourists and residents, and to support
3347 economic vitality while protecting the public health, safety, and welfare. These regulations intend to:
3348

3349 A. Enhance the visual image and attractiveness of the City;
3350

3351 B. Establish reasonable standards that offer flexible and diverse design options;
3352

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- 3353 C. Ensure development in Cape Coral is of consistent high quality and character; and
3354
3355 D. Regulate site layout and architectural features to ensure aesthetic and visual interest.
3356

3357 **Section 5.8.2. Applicability.**
3358

- 3359 A. The standards of this section shall apply to all non-residential and mixed-use development for which
3360 application for site plan approval, or a building permit is made.
3361
3362 B. These design standards shall apply to existing development if a building's gross floor area is increased
3363 by 50% or more.
3364
3365 C. Development on Industrial zoned sites shall be exempt from these standards.
3366
3367 D. The design standards of this section do not apply when the City Council has established specific design
3368 standards for a unique area of the city unless the specific design standards otherwise expressly state
3369 their applicability.
3370

3371 **Section 5.8.3. Exemptions.**
3372

3373 The following types of buildings shall be exempt from the non-residential design standards.
3374

- 3375 A. Any building that has received a temporary use permit.
3376
3377 B. Any accessory structure.
3378
3379 C. Bona fide agricultural buildings in the Agricultural District like barns and stables.
3380
3381 D. Guard houses.
3382
3383 E. Government facilities that are screened or not visible from a public street.
3384
3385 F. Model homes.
3386
3387 G. Municipal pump station buildings.
3388
3389 H. Neighborhood storage and mini-storage buildings provided the buildings are enclosed with a wall with
3390 a minimum height of six feet.
3391
3392 I. Pavilions, carports, gas canopies, and similar buildings that have support posts or columns but no
3393 sides.
3394
3395 J. Buildings similar to those listed above as determined by the Director.
3396

3397 **Section 5.8.4. Conflicts.**
3398

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3399 If any of the non-residential and mixed-use design standards of this section conflict with any other
3400 provision of the City of Cape Coral Code of Ordinances or Land Development Code, the provision that
3401 establishes the more specific standard or architectural theme governs. If neither conflicting provision
3402 establishes a specific standard or architectural theme, then the more restrictive provision governs unless
3403 otherwise expressly provided.
3404

3405 **Section 5.8.5. Appearance, Building Mass, and Design Treatments.**
3406

3407 A. Consistency Within a Development. Except for buildings on outparcels that contain only one unit,
3408 designed and constructed to be occupied by a single end user, regardless of the number of business
3409 operations conducted within the single unit, buildings within a development shall be designed with
3410 color schemes, building materials, finishes, roof types, roof lines, and exterior roof finishing consistent
3411 with or that resemble those of the principal building or structure on the main parcel(s).
3412

3413 B. Consistency and Integrity of Building Components. All portions of any exterior side of a building,
3414 extending from finished grade to the top of the parapet wall or eaves, extending the entire width of
3415 the side of a building, must be designed with consistent architectural style, detail and trim features.
3416 All architectural features other than parapet walls, including towers or cupolas, shall be designed so
3417 as to have an equivalent character from any ground-level angle from which they can be viewed.
3418 Although perfectly symmetrical or uniform treatments are not required, architectural features that
3419 appear to enclose a spatial volume when viewed from one angle but not from all angles, or that
3420 incorporate gratuitous treatments that are not intended to be viewed from all ground-level angles,
3421 are prohibited.
3422

3423 C. Transparency of Building Walls. Windows and doors used to meet the transparency requirements
3424 identified below shall have a visible transmittance of at least 50% and an exterior reflectance no
3425 greater than 20%.
3426

3427 1. For buildings abutting and facing a public street, transparent windows, doors, or any combination
3428 thereof, shall cover at least 25% of the first story building wall area between two feet and 10 feet
3429 above grade.
3430

3431 2. For buildings with walls abutting but not facing a public street, transparent windows, doors, or
3432 any combination thereof, shall cover at least 15% of the first story building wall area between two
3433 feet and 10 feet above grade.
3434

3435 3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking
3436 areas, transparent windows, doors, or any combination thereof, shall cover at least 25% of the
3437 first story building wall area between two feet and 10 feet above grade.
3438

3439 D. Sides of a building. For buildings located on outparcels, all exterior sides of a building shall comply
3440 with this section. Additionally, except for a side of a building built flush with a side lot line, a side of a
3441 building that faces a rear lot line of an abutting property, and a side of a building that faces a property
3442 line that abuts an alley, all sides of a building shall comply with the standards of this section.
3443

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- 3444 1. All exterior sides of a building subject to this subsection shall include a repeating or varying
 3445 pattern and shall comply with both design elements listed below. At least one of the three design
 3446 elements shall repeat horizontally. All elements shall repeat or alternate at intervals of no more
 3447 than 50 feet, either horizontally or vertically.
 3448
- 3449 a. Each wall shall provide visual differentiation of wall surfaces through variations in a minimum
 3450 of one of the following:
 3451 i. Building materials;
 3452 ii. Finish textures; or
 3453 iii. Color.
 3454
- 3455 b. Each wall shall provide a minimum of two of the following architectural features:
 3456 i. Columns;
 3457 ii. Pilasters;
 3458 iii. Awnings;
 3459 iv. Canopies;
 3460 v. Reveals (if provided shall have a minimum depth of ½ inch);
 3461 vi. Corbels;
 3462 vii. Quoins ;
 3463 viii. Keystones;
 3464 ix. Cornices (if provided shall have a minimum height of four inches); or
 3465 x. Other features as determined by the DCD Director that provide articulation or reduce
 3466 building massing.
 3467
- 3468 2. All exterior sides of a shall provide design elements in accordance with the gross square footage
 3469 of a building, as provided herein. Required design elements may be located on an exterior wall of
 3470 a building, on the roof of the building, or on both the wall(s) and the roof of a building, as
 3471 applicable. If located on a roof, the design element shall be located on a portion of the roof that
 3472 faces in the same direction as the exterior wall. It is not the intent of this section, however, to
 3473 require the design elements to be on both the exterior wall(s) and the roof.
 3474

Building Gross Floor Area (sq. ft.)	Minimum number of Design Elements Required
10,000 sq. ft. or less	3
10,001 to 49,999 sq. ft.	4
50,000 sq. ft. or greater	5

- 3475 a. Architectural features and detailing that create a frame and definition to the primary public
 3476 entrance;
 3477
- 3478 b. One or more canopies or awnings that extend a total length of at least 30% of the length of
 3479 any side of a building subject to this subsection;
 3480
- 3481 c. One or more attached porticos;
 3482
- 3483 d. Peaked or arched roof form;
 3484
- 3485

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- 3486 e. Overhanging eaves a minimum of 18 inches wide on all portions of a building with a pitched
3487 roof;
3488
- 3489 f. Arcade;
3490
- 3491 g. Colonnade;
3492
- 3493 h. Arches or arched forms other than roof forms or an arcade;
3494
- 3495 i. Windows or glazing that exceed the minimum glazing requirements of Subsection 5.8.5.C. by
3496 a minimum of 10% for a wall;
3497
- 3498 j. Ornamental or structural details, including, banding or moldings used throughout the exterior
3499 building walls that add decoration and detail to a building roofline, building openings, or
3500 windows;
3501
- 3502 k. Two or more ornamental or structural details that are horizontally continuous (except for
3503 interruptions for doors and windows), which may include belt courses or any type of three-
3504 dimensional molding, banding, projections, recesses, or niches that help to define a base,
3505 body, and cap to the proposed building;
3506
- 3507 l. A tower such as a clock tower or bell tower;
3508
- 3509 m. A cupola;
3510
- 3511 n. Sculptured artwork (excluding corporate logos or advertising);
3512
- 3513 o. Vertical articulation of walls, including pilasters, columns, or other relief with maximum
3514 separation of one third of the wall on which they are located, not to exceed a separation of
3515 100 feet;
3516
- 3517 p. Planter boxes that are integrated into the building architecture or wing walls that incorporate
3518 landscaped areas or places for sitting; or
3519
- 3520 q. Curved wall containing an uninterrupted curve along at least 10% of the length of any side of
3521 a building subject to this subsection.
3522
- 3523 3. For buildings with a gross floor area of greater than 50,000 square feet, no exterior wall shall
3524 exceed 100 linear feet in a horizontal direction within a single, continuous wall plane, nor shall
3525 any single, continuous wall plane constitute more than 60% of the building's total length. A wall
3526 shall be deemed to be in a single, continuous wall plane unless it is offset (recessed or projected)
3527 by at least 36 inches from any adjacent wall plane or contains a pilaster that projects at least 36
3528 inches from the wall.
3529

Section 5.8.6. Wall Height Transition.

3530
3531

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3532 A. Buildings that are more than twice the height of the height of extant buildings on abutting property
3533 shall incorporate one or more transitional height elements to segue the height of the new building to
3534 the height of the closest existing building. The transitional height element shall be incorporated on
3535 the new building at the approximate cornice or roof line of the nearest existing building, if any. Where
3536 there is no extant building on adjacent property, the requirements of this sub-section will not apply.
3537 Where no single building is "nearest" to the new building, but instead two or more buildings are
3538 located an equidistance from the new building, the property owner may select the approximate
3539 cornice or roof line of any of such equidistant buildings at which to incorporate the transitional height
3540 element on the new building.

- 3541
- 3542 B. Transitional height elements may include:
- 3543
- 3544 1. Cornices or other decorative elements that run the length and width of the building and project
3545 a minimum of six inches from the wall;
 - 3546
 - 3547 2. Upper story setbacks and offsets at the approximate cornice or roof line of the nearest existing
3548 building as provided above;
 - 3549
 - 3550 3. Variations in roof planes.
- 3551

3552 **Section 5.8.7. Building Materials.**

3553

3554 Only the following finish materials for exterior walls are permitted. All other finish materials are
3555 prohibited.

3556

3557 A. Concrete block with stucco finish (CBS), synthetic stucco (an exterior cladding system with a stucco-
3558 like outer finish applied over insulating boards or composite materials), or other exterior coating that
3559 is the visual equivalent of stucco. Non-textured concrete block with visible mortar joints, even if
3560 painted, is not an acceptable finished material.

3561

3562 B. Textured or ribbed concrete block, e.g. "split-face block".

3563

3564 C. Reinforced concrete of any finish.

3565

3566 D. Glass or other glazing, whether transparent, translucent, or applied as a veneer. For purposes of this
3567 subsection, glazing consists of glass or any material that resembles glass including, but not limited to,
3568 Plexiglass or polycarbonate.

3569

3570 E. Stone or brick, including simulated stone or brick.

3571

3572 F. Wood, other than plywood or T1-11 type paneling, if termite-resistant species, pressure-treated,
3573 painted, or stained.

3574

3575 G. Fiber-reinforced cement panels or boards.

3576

3577 H. Tile.

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3578
3579 I. Architectural metal panels, provided that corrugated metal panels shall not exceed 30% of the surface
3580 of any wall.

3581
3582 J. Vinyl siding, provided that vinyl siding shall not exceed 30% of the surface of any wall.

3583
3584 **Section 5.8.8. Roofs.**

3585
3586 A. All non-residential and mixed-use buildings shall have variations in rooflines and roof features that
3587 are consistent with the building's mass and scale. In addition, roofs shall include features from at least
3588 two of the following five categories below. Flat, unadorned roofs are prohibited.

3589
3590 1. Parapet wall provided the parapet extends completely around the building on all sides. However,
3591 this requirement shall not prohibit the substitution of a pitched roof in lieu of a parapet for part
3592 of a building.

3593
3594 2. A three-dimensional cornice treatment, a minimum of four inches high (not applicable along any
3595 portion of a wall that is built flush to the side lot line). Flashing at the top of a parapet shall not
3596 qualify as a cornice. Cornices shall return a minimum of eight feet around corners that transition
3597 from a building wall that requires a cornice to a building wall that does not require a cornice.

3598
3599 3. Varied roof lines with different roof heights and or separate or distinct roof segments that fall at
3600 different horizontal planes above the cornice line;

3601
3602 4. Overhanging eaves that extend at least 18 inches beyond the supporting walls, with a minimum
3603 fascia of six inches in height (not applicable along any portion of a wall that is built flush to the
3604 side lot line);

3605
3606 5. Vertical variation in the roof line with a minimum change in elevation of two feet.

3607
3608 B. Pitched roofs such as gable, hip, shed or mansard roofs shall be clad with highly durable materials such
3609 as standing seam metal, slate, ceramic, or fireproof composite tiles. Fiberglass and asphalt shingles
3610 are prohibited except for dimensional grade or better.

3611
3612 1. Allowed slope. Pitched roofs shall have a minimum slope of three feet vertical rise for every 12
3613 feet of horizontal run. The maximum slope of a pitched roof shall not exceed a one-foot vertical
3614 rise for every on foot of horizontal run.

3615
3616 C. Roofs covering pavilions, carports, gas canopies, and similar structures with support posts or columns
3617 but no sides. Buildings with roofs that lack walls, whether free-standing or attached to another
3618 building, shall have a minimum slope of three feet vertical rise for every 12 feet of horizontal run.
3619 Unless a roof with an alternative design is approved by the DCD Director, all roofs are required to
3620 possess a pitched roof with a minimum slope of three feet vertical rise for every 12 feet of horizontal
3621 run. The DCD Director shall consider the following two criteria in determining whether to approve a
3622 roof with an alternative design:

3623

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- 3624 1. Whether the design of the roof evokes exceptional expression through the use of angularity,
3625 curvature, or other means; or
3626
3627 2. Whether the design of the roof precludes visual monotony and enhances the aesthetic character.
3628
3629 Flat and parapet roofs are prohibited for buildings covered by this subsection.
3630

Section 5.8.9. Building Design Standards in the SC District.

- 3631
3632
3633 A. All buildings, whether residential, nonresidential or compound use, shall conform to the design
3634 standards provided herein., except as superseded by the following requirements.
3635
3636 B. Public entrances. Public entrances shall be provided as follows:
3637
3638 1. Any building facade that faces a street (excluding alleys) shall provide a public entrance oriented
3639 toward such street. In the case of a corner lot where more than one building facade faces a street,
3640 a corner entrance may serve to meet the requirements for the two streets that intersect and
3641 create the corner. All public entrances shall have convenient pedestrian access providing a direct
3642 connection from the street to the entrance via a walkway a minimum of four feet in width and
3643 not traversing any portion of an off-street parking area. In the event the City determines that this
3644 provision cannot be met due to site constraints, such walkway may traverse the off-street parking
3645 area but shall be clearly delineated by a change in paving material, pavement markings, or similar
3646 treatment.
3647
3648 2. Any building facade that faces a dedicated city parking area shall provide a public entrance
3649 oriented toward such dedicated city parking area with convenient pedestrian access providing a
3650 direct connection via a walkway a minimum of four feet in width.
3651
3652 3. It is not the intent of these provisions to require more than two public entrances to any use
3653 intended to be occupied by a single tenant. In the event that the provisions above cumulatively
3654 require more than two public entrances, then the requirements may be reduced such that two
3655 public entrances shall be required. In determining the orientation of such public entrances.
3656 Parkway street designations and dedicated city parking areas shall have priority.
3657
3658 C. Transparency of building walls. Except for parking structures, building walls shall contain transparent
3659 windows, doors, or any combination thereof, meeting the following standards:
3660
3661 1. For lots abutting parkway or primary street designations, transparent windows, doors, or any
3662 combination thereof, shall cover at least 50% of the first story building wall area that faces the
3663 parkway or primary street designation. Above the first story, non-residential uses, except hotels,
3664 shall provide transparent windows, doors, or any combination thereof, covering at least 25% of
3665 the entire building wall area; residential and hotel uses shall provide at least 15%.
3666
3667 2. For lots abutting secondary or tertiary street designations, non-residential uses, except hotels,
3668 shall provide transparent windows, doors, or any combination thereof, covering at least 25% of

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3669 the entire building wall area that faces the secondary or tertiary street designations; residential
3670 and hotel uses shall provide at least 15%.

3671

3672 3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking
3673 areas, non-residential uses, except hotels, shall provide transparent windows, doors, or any
3674 combination thereof, covering at least 25% of the entire building wall area that faces the
3675 dedicated city parking area; residential and hotel uses shall provide at least 15%.

3676

3677 4. Non-residential use building walls facing navigable waterways shall provide transparent windows,
3678 doors, or any combination thereof, covering at least 25% of the entire building wall area.

3679

3680 5. For lots abutting parkway, primary, or secondary street designations, all window and door glass
3681 that faces such designations, shall have a visible transmittance of at least 50% and an exterior
3682 reflectance no greater than 20%. The bottom of such windows shall be no higher than 36 inches
3683 above grade, or six inches above the floor of the lowest habitable story, whichever is higher.
3684 However, if the building is designed with floodproofing panels or barriers, the bottom of such
3685 windows shall be located no higher than six inches above the top of the floodproofing panel or
3686 barrier.

3687

3688 6. The exterior of windows and doors shall remain unshuttered at all times of the day. This provision
3689 shall not apply to the following:

3690

3691 a. Un-walled areas such as, but not limited to, dining and seating areas associated with
3692 restaurants and bars.

3693

3694 b. Hurricane shutters or flood-proofing panels during the time period in which a flood watch or
3695 warning, a tropical storm watch or warning, or a hurricane watch or warning is in effect for
3696 any portion of Lee County. Such shutters or panels shall be removed within a week from the
3697 time they are put up, unless a hurricane, tropical storm, or flood has impacted the area, in
3698 which case the shutters may remain up for not more than three months from the date of the
3699 incident, except for good cause shown to the City.

3700

3701 D. Non-residential buildings with a first story consisting of more than 35,000 square feet of floor area
3702 and consisting of a single use shall meet the following requirements:

3703

3704 1. One public entrance shall be provided for every 75 feet of overall building frontage; or

3705

3706 2. Liner buildings meeting the following requirements shall be provided:

3707

3708 a. Liner buildings shall be provided along at least 50% of the overall building frontage.

3709

3710 b. Liner buildings shall contain active uses with at least one public entrance provided for every
3711 75 feet of liner building frontage. Such liner buildings shall comply with all applicable building
3712 setbacks and building frontages.

3713

3714 c. Liner buildings shall have an interior depth of at least 15 feet.

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- 3715
3716 d. Liner buildings may be detached from, attached to, or integrated into the principal building.
3717
3718 E. Architectural elements design standards: awnings, canopies, colonnades, arcades, balconies, front
3719 porches, stoops/landings, and cupolas. A first story facade facing a street or dedicated city parking
3720 area shall provide shade with awnings, canopies, colonnades, arcades, balconies, or any combination
3721 thereof, for at least 50% of its length or width, unless prohibited by Article 4, Chapter 5. Architectural
3722 elements, or any combination of architectural elements, may occur forward of the minimum setback,
3723 as applicable, but shall not extend forward of a lot line. Architectural elements, or any combination
3724 of architectural elements shall not encroach into an easement unless approved by the City. The city
3725 may require the property the property owner to enter into a formal easement agreement in a form
3726 acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to
3727 encroachments in the easement that result from maintenance or public infrastructure improvements.
3728
3729 1. The City shall consider the following criteria in determining whether to approve an architectural
3730 element, or any combination of architectural elements, that would encroach into the easement:
3731
3732 a. The extent to which the architectural element would encroach into the easement;
3733
3734 b. The effect of such encroachment on any utilities that are either currently located in the
3735 easement or that may be located in the easement in the future; and
3736
3737 c. The effect of such placement on any abutting properties or streetscape.
3738
3739 2. Awnings and canopies. Awnings and canopies extending from the first story, facing a street or
3740 dedicated city parking area, and serving to meet the 50% length/width requirement of Article 4,
3741 Chapter 5 shall conform to the following:
3742
3743 a. Depth shall be a five-foot minimum projection from the building facade.
3744
3745 b. Height shall be an eight-foot minimum clearance, including suspended signs.
3746
3747 3. Colonnades and arcades. Colonnades and arcades facing a street or dedicated city parking area
3748 shall conform to the following:
3749
3750 a. Depth shall be a minimum of five feet from the building wall to the inside column face.
3751
3752 b. Height shall be an eight-foot minimum clearance, including suspended signs. The lowest point
3753 on arches shall not extend below seven feet.
3754
3755 c. Openings between piers, columns, or similar supporting elements shall be at least 50% of the
3756 colonnade or arcade facade area.
3757
3758 d. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be
3759 permitted above the colonnade or arcade.

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- 3760 4. Balconies. Balconies shall be open and un-air-conditioned. Balconies may have roofs. Roofed
3761 balconies may be enclosed with screen and may contain privacy partitions. Balconies shall not
3762 project beyond the rear building setback requirement, as applicable. Balconies shall be located
3763 no closer than six feet from the abutting side lot line. Balconies facing a street or dedicated city
3764 parking area shall have a height clearance of ten feet minimum from grade; their decorative or
3765 supporting elements that project from building walls shall have a clearance of seven feet from
3766 grade.
3767
- 3768 5. Front porches. Front porches shall be un-air-conditioned. may be screened, and shall conform to
3769 the following:
3770
- 3771 a. Front porches facing a street or dedicated city parking area and serving to meet the minimum
3772 building frontage requirements of Article 4, Chapter 5 shall be a minimum of eight feet in
3773 depth.
3774
- 3775 b. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be
3776 permitted above front porches.
3777
- 3778 6. Stoops and landings. Stoops and landings may be roofed or unroofed, and shall maintain the
3779 required minimum building setback, as applicable. However, access to a stoop, whether by stairs,
3780 ramp, or other means, may extend forward of the minimum building setback as applicable, if
3781 approved by the Director but shall not be located less than three feet from the front lot line.
3782
- 3783 7. Cupolas. When provided, cupola(s) shall have a maximum of 400 square feet in horizontal
3784 dimension and shall be limited to two per building.
3785
- 3786 8. Garage doors associated with residential uses, when facing the front of the lot, shall be set back
3787 at least 20 feet behind the building line.
3788

3789 **Section 5.8.10. Equipment and Loading Areas**
3790

- 3791 A. For all non-residential and mixed-use developments, air conditioning, heating, and similar equipment
3792 shall be placed on the roof or the ground.
3793
- 3794 1. Air conditioning and heating equipment shall be prohibited from being mounted on the side of a
3795 building.
3796
- 3797 2. Rooftop equipment shall be screened on all sides in a manner consistent with the architectural
3798 design of the building. Such screening shall be at least as high as the highest portion of the
3799 equipment or apparatus being screened.
3800
- 3801 3. Equipment located on the ground shall be located or screened so as not to be visible from any
3802 property line abutting a public street other than an alley when viewed along a line perpendicular
3803 or radial to such property line. Screening shall consist of a wall, fence, plant material, or any
3804 combination thereof. Fences used for screening shall not be constructed of chain link with or

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3805 without slats and are encouraged to be designed to appear to be constructed of material the same
3806 as the building, and to incorporate architectural trim features consistent with the building.
3807

3808 4. Electric meters and similar panels may be wall-mounted and are subject to the same screening
3809 requirements outlined in subsection c. above.
3810

3811 5. Attic vents and solar panels are exempt from the requirements of this subsection.
3812

3813 B. Loading areas that are visible from an abutting property with a residential future land use
3814 classification or that is separated from a property with a residential future land classification by an
3815 alley or a two-lane street shall be screened by a wall that is at least six feet in height, which is
3816 constructed of the same material as the building or is designed to appear to be constructed of material
3817 the same as the building, and that incorporates architectural trim features consistent with the
3818 building, by an earthen berm that is at least six feet in height, or by a combination of wall and berm
3819 that is at least six feet in height.
3820

3821 **Section 5.8.11. Deviations.**
3822

3823 A. Deviations from the provisions of this section may be approved by the Director provided that the
3824 deviation will not be contrary to the public interest and will be in harmony with the general intent
3825 and purpose of this section and where either of the following applies:
3826

3827 1. Conditions exist that are not the result of the applicant and which are such that a literal
3828 enforcement of the regulations involved would result in unnecessary or undue hardship; or
3829

3830 2. Literal conformity with the regulations would inhibit innovation or creativity in design.
3831

3832 B. In determining whether a particular deviation request should be approved as the result of
3833 unnecessary or undue hardship, factors the Director shall consider include, but are not limited to, the
3834 following: site constraints such as shape, topography, dimensions, and area of the property, the effect
3835 other regulations would have on the proposed development, or other locational factors that may
3836 make compliance with this section impossible or impracticable, the effect the requested deviation
3837 would have on the community appearance including, but not limited to, consideration of the mass,
3838 scale, and other characteristics of a proposed building relative to the characteristics of existing and
3839 approved surrounding buildings whether on the same or nearby sites, and the relative visibility and
3840 character of equipment or loading areas which are otherwise required to be screened along with
3841 constraints on alternative location of such equipment or loading areas. Additionally, the Director shall
3842 find that the approval of the deviation(s) would serve the intent of this section to protect the health,
3843 safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual
3844 interest in the city.
3845

3846 C. In determining whether a particular deviation request should be approved because compliance with
3847 the regulations would inhibit innovation or creativity in design, the Director approve the request for
3848 deviation(s) if the applicant demonstrates that the design of the building or development for which
3849 one or more deviations is sought is unique and innovative and further, that the approval of the
3850 deviation(s) would enhance such unique and innovative design. Additionally, the Director shall find

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3851 that the approval of the deviation(s) would serve the intent of this section to protect the health,
3852 safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual
3853 interest in the city. For purposes of this section, indicators of unique and innovative design may
3854 include, but are not limited to, the following:

- 3855
- 3856 1. Architectural details that are unique or that are exceptional in quality by virtue of artistic
3857 composition, quality of materials, dimensional attributes, or any combination thereof;
 - 3858
 - 3859 2. Building forms that evoke exceptional expression through use of angularity, curvature, or other
3860 means;
 - 3861
 - 3862 3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
 - 3863
 - 3864 4. Other details or forms that preclude visual monotony and are pleasing in aesthetic character.
 - 3865
- 3866 D. Requests for deviations and the reasons therefor shall be set forth by the applicant in the application
3867 for deviation and shall be accompanied by documentation including sample detail drawings,
3868 schematic architectural drawings, site plans, floor plans, elevations, and perspectives which shall
3869 graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate
3870 to the benefit or at least not to the detriment, of the public interest.
- 3871
- 3872 E. Subject to these standards and criteria, the Director shall approve only the minimum deviation from
3873 the provisions of this section necessary to avoid either the unnecessary or undue hardship or the
3874 inhibition of innovation or creativity in design. The Director may impose reasonable conditions of
3875 approval in conformity with this section. Violation of such conditions and safeguards, when made a
3876 part of the terms under which a deviation is granted, shall be deemed a violation of this section and
3877 shall be enforceable not only by revocation of the deviation, but also by all other remedies available
3878 to the city, including, but not limited to, all code enforcement procedures.
- 3879

3880 **CHAPTER 9. TEMPORARY USES.**

3881

3882 **Section. 5.9.1. Purpose and applicability.**

3883

- 3884 A. The purpose of this Section is to ensure all temporary events and activities are located and
3885 coordinated in harmony with the surrounding community. Temporary uses are authorized in this
3886 article as temporary accessory or principal uses for time periods proportionate and appropriate to the
3887 nature of the temporary use. Temporary uses permitted by this article may not be listed as a use in a
3888 particular zoning district. Temporary uses not listed in this article may be permitted through a
3889 temporary use agreement approved by the Director of Community Development
- 3890
- 3891 B. All temporary uses and special events approved subject to the standards and requirements set forth
3892 under this article are deemed to be a privilege and not a right, which may be revoked by the city for
3893 failure to comply with any of the provisions of this article or any other local, state, or federal law
3894 governing the event. Approved temporary uses and special events may also be revoked if such
3895 revocation is in the best interest of the city based on emergency, disorder, or other unforeseen
3896 conditions. Private events held on private property shall not require a temporary use permit. Signs

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3897 shall be limited to the signs permitted in Section 5.9.10 of this article and shall not be allowed within
3898 the right-of-way.
3899

3900 C. Application for a temporary permit.
3901

3902 1. Temporary use permits shall be coordinated by the Community Development department who
3903 may request reviews from the Fire, Police, Building, and Public Works departments as necessary
3904 to ensure safety.
3905

3906 2. If a temporary use or event is proposed at a public park property, an application must be
3907 submitted to the Parks and Recreation Department along with any applicable fees and proof of
3908 insurance.
3909

3910 3. Private events held on private property shall not require a temporary use permit.
3911

3912 **Section. 5.9.2. Firework, pumpkin, and Christmas tree sales.**
3913

3914 Temporary outdoor sales are prohibited, except as provided here in. Excepted seasonal events involving
3915 outdoor sales of merchandise shall meet all appropriate requirements of the Building Code, Electrical
3916 Code, Fire (Life Safety) Code, and Plumbing Code, particularly regarding temporary sanitary facilities.
3917 Temporary outdoor sales are prohibited unless they have applied for and received all required permits in
3918 compliance with this Subsection. Firework, pumpkin, and Christmas tree sales may be in all nonresidential
3919 zoning districts except the Preservation and Public Zoning Districts subject to the following:
3920

3921 A. Application. A complete application must be submitted to the Department of Community
3922 Development, along with a conceptual site plan.
3923

3924 B. Dates and hours of operation:
3925

3926 1. Firework sales may be operated from December 15 through January 1 and from June 1 through
3927 July 10;
3928

3929 2. Pumpkin sales may be operated from October 1 through November 5;
3930

3931 3. Christmas tree sales may be operated from November 15 to January 1; and
3932

3933 4. Lots may be open from 8 AM to 10 PM.
3934

3935 C. Parking and facilities.
3936

3937 1. Temporary sales lots must provide five parking spaces per half acre. A paved parking lot shall not
3938 be required.
3939

3940 2. Permission to place one or more tents (up to a total of 425 square feet in size) on the site, provided
3941 that the applicant provides proof of fire-retardancy and adequate tie-down measures with the
3942 application. Tents larger than 425 square feet shall require a separate tent permit. The location

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3943 and setback of the tent(s) shall be shown on the conceptual site plan. If a sales trailer is being
3944 used in lieu of a sales tent, the sales trailer shall be handicap-equipped and accessible in
3945 accordance with the Florida Accessibility Code for Building Construction and ADA requirements
3946 and shall be anchored in accordance with all applicable building code standards.

3947
3948 3. Permission to utilize an electric generator on site. A temporary electric pole shall not, however,
3949 be authorized by the temporary sale permit. A temporary electric pole shall require a separate
3950 permit to be applied for and issued to a licensed electrical contractor.

3951
3952 D. The Director may approve temporary outdoor seasonal sales in the RML zoning district, if it is
3953 determined that such sale would not result in adverse impacts on the surrounding neighborhood.
3954 Approval of a season sale in the RML district may include conditions to protect the surrounding
3955 neighborhood from adverse impacts.

3956
3957 E. The applicant shall request inspection by the city of the items authorized pursuant to this Section and
3958 shall receive approval thereof prior to beginning the sale activity. Inspection of items authorized
3959 pursuant to this Section shall be made by the Community Development and Fire Departments.

3960
3961 **Section. 5.9.3. Outdoor display of merchandise.**

3962
3963 Unless otherwise permitted, outdoor display of merchandise is prohibited, except on improved property
3964 in accordance with the following conditions:

3965
3966 A. All outdoor display of merchandise for sale, in non-residential districts is permitted with the following
3967 conditions:

3968
3969 1. Except in the downtown zoning district, such displays may be no closer than 10 feet to the front
3970 or rear property lines and five feet to side property lines or 15 feet to the side property line on
3971 corner lots.

3972
3973 2. Displays may not be in required parking. If such displays are placed on a public sidewalk, the
3974 display shall comply with the following regulations:

3975
3976 a. Displays may be placed on the public sidewalk only directly in front of the lawfully existing
3977 business which retails the items being displayed.

3978
3979 b. Displays shall be placed on tables, shelves, or racks that are moved indoors during any hours
3980 the business is not open and that do not exceed six feet in height and do not extend more
3981 than two feet onto the public sidewalk.

3982
3983 B. Outdoor display of merchandise for sale on vacant property is prohibited, except as permitted for
3984 seasonal events in accordance with Section 5.9.2. or special events in accordance with Section 5.9.10.

3985
3986 **Section. 5.9.4. Garage sales.**

3987
3988 Garage sales may be permitted on a private property in accordance with the following regulations:

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- A. Garage sales are permitted to be held for a period not to exceed three days, on the basis of three such activities per residence per year, not to be held closer than 30 days apart.
- B. Prior to conducting a garage sale, the person conducting such sale is required to obtain a permit online from the city website or at the Code Enforcement Division. Such permit shall be posted or otherwise displayed on the property where the sale is being held to be visible from the street. In the event a garage sale is conducted without a permit, such sale shall be closed by the Police Department or the Code Enforcement Division, and shall remain closed until a valid garage sale permit is received from the city. Garage sale permits shall include authorization for on-site signs and off-site signs in accordance with applicable portions of the City of Cape Coral Land Development Code. On-site or off-site garage sale signs shall not be attached to any utility pole, street sign, tree, or other landscaping.
- C. The purchase of items for resale at a residence, which in essence establishes a residence as a second-hand store, is hereby prohibited.
- D. A violation of this Section shall be punishable by a fine of not less than \$75 and not more than \$250. Each day any violation of any provision of this Section occurs or continues shall constitute a separate offense. As an alternative, violators may be cited by a Code Enforcement Officer to appear before the Code Enforcement Special Master. In such event, violators shall be subject to fine(s) not to exceed \$250 per day for first time violations or not to exceed \$500 per day for repeat violations, as imposed by the Code Enforcement Special Master pursuant to the City of Cape Coral Code of Ordinances or the Florida Statutes. A person is subject to arrest if he or she refuses to close down a garage sale for which no valid permit is in effect.

Section. 5.9.5. Temporary construction or field office.

- A. Construction trailers in residential zoning districts are subject to the following requirements.
 - 1. Construction trailers shall not be connected to potable water and sewer facilities. If the construction trailer is wired for electricity, the wiring must conform to all applicable city electric codes.
 - 2. The construction trailer must be removed from the site prior to issuance of a certificate of occupancy.
 - 3. No overnight residential use shall be permitted in a construction trailer.
 - 4. Construction trailers must comply with the setback requirements of the zoning district or the site.
 - 5. Construction trailers shall not be larger than 200 square feet.
- B. Construction trailers in non-residential zoning districts are subject to the following requirements.

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- 4035 1. When a construction trailer is used as a temporary office, the trailer must be wired for
4036 electricity and must be connected to potable water and sewer facilities, if available. Wiring
4037 and plumbing must conform to applicable Electric and Plumbing Codes.
4038
- 4039 2. The construction trailer must be located at the construction site or an abutting site with the
4040 property owner's written permission.
4041
- 4042 3. The construction trailer must be removed from the site prior to issuance of a certificate of
4043 occupancy.
4044
- 4045 4. No overnight residential use shall be permitted in a construction trailer.
4046
- 4047 5. Construction trailers must comply with the setback requirements of the zoning district or the
4048 site.
4049

Section 5.9.6. Construction staging areas and post disaster debris staging

- 4050
- 4051 **A. Contractor staging for essential public facilities. Contractor staging areas for materials used in**
4052 **construction of essential public facilities are permitted in all zoning districts, subject to the following**
4053 **requirements:**
4054
- 4055 1. The temporary staging area shall serve a project being carried out in the vicinity of the
4056 construction staging area;
4057
- 4058 2. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;
4059
- 4060 3. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through
4061 Saturday only;
4062
- 4063 4. Fencing required;
4064
- 4065 5. No structures other than a permitted construction trailer may be placed on the property; and
4066
- 4067 6. No outdoor lighting is permitted for any staging area in a residential zoning district
4068
- 4069
- 4070 **B. Construction staging areas. Construction staging areas are a permitted activity in all zoning districts,**
4071 **provided the staging area is on the same parcel where construction activity is authorized by a valid**
4072 **building permit. Construction staging areas on vacant, adjoining, or nearby parcels is prohibited.**
4073
- 4074 **C. Post disaster debris staging areas. Post disaster debris staging areas are allowed in all zoning**
4075 **districts on sites designated by the City for such activity.**
4076

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4077 D. Post disaster construction staging. Staging areas for post disaster reconstruction efforts are allowed
4078 in all non-residential zoning districts. Post disaster construction staging is allowed in residential
4079 zoning districts as a (special exception/conditional) use.
4080

4081 **Section. 5.9.7. Temporary sales office.**
4082

4083 A. Temporary sales offices are mobile structures used only for the sale or lease of units within that
4084 development. For the purpose of this section, units to be located within the development shall
4085 mean residential, non-residential, or mixed use habitable space or leasable floor area, whether
4086 occupying all of a building or individual area within a building including residential units,
4087 residential or non-residential units, individual units in a multi-unit non-residential development,
4088 or freestanding residential or non-residential structures.
4089

4090 B. Requirements for a temporary sales office. The following requirements must be met prior to the
4091 approval of a temporary sales office:
4092

4093 1. Connection to sewer and water is required. If sanitary sewer and potable water are unavailable
4094 to the site, bottled water and portable sanitary facilities may be utilized until such time as
4095 sanitary sewer and potable water are available. A temporary sales office shall be connected to
4096 such facilities within 90 days of availability or within 90 days of the permitted temporary sales
4097 office, whichever is less.
4098

4099 2. The temporary sales office shall meet the setbacks of the zoning district in which it is located.
4100

4101 3. A temporary sales office shall not be used as a place of habitation or abode by any person(s),
4102 and shall not be used or occupied for business, office, or other purpose(s) at any time except
4103 between the hours of 7:00 a.m. and 9:00 p.m.
4104

4105 4. A minimum of three paved off-street parking spaces shall be provided for the temporary sales
4106 office.
4107

4108 5. The entrance to the site on which the temporary sales office is located shall consist of a city
4109 approved driveway or construction entrance. Any impervious area added for the temporary
4110 sales office shall be subject to review and approval by the city.
4111

4112 6. The base of any temporary sales office shall be fully obscured by landscaping and skirting.
4113 Shrubs must be planted on 30-inch centers and have a minimum planted height of two feet.
4114 The type of irrigation, if applicable, must also be provided on the plan. Erosion shall be
4115 minimized and prevented to the extent practicable around any disturbed area.
4116

4117 7. The maximum duration of the permit shall not exceed one year. The Director may extend
4118 permits for up to six months each, based upon factors that include:
4119

4120 a. Size of the project.

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- 4121
- 4122 b. Number of lots or units in the development remaining to be sold or leased.
- 4123
- 4124 c. Effect that the extension would have on the surrounding properties.
- 4125
- 4126 d. Developer's need for an extension and efforts, if any, the developer has put forward
- 4127 toward completion of the development (e.g., effort to complete construction in a timely
- 4128 manner, delays beyond the reasonable control of the developer, etc.).
- 4129
- 4130 8. A temporary sales office shall be removed no later than the date the development is completed
- 4131 or within 30 days after notice by the city that the application for development has been denied,
- 4132 whichever is applicable.
- 4133
- 4134 C. Permit application and submittal requirements. A permit shall be required for a temporary sales
- 4135 office. In order to obtain a permit for the use of a structure for a temporary sales office, the
- 4136 applicant shall submit the following to the Department of Community Development:
- 4137
- 4138 1. A scaled drawing of the site, identifying the location of the temporary sales office with
- 4139 dimensions. Construction plans shall also be submitted.
- 4140
- 4141 2. The names of the property owner and the operator of the temporary sales officer. In the
- 4142 event the operator is different from the property owner, written and notarized consent from
- 4143 the property owner must be submitted. Such written consent shall be revocable. In the event
- 4144 such consent is revoked, the temporary sales office shall be removed within 30 days.
- 4145
- 4146 3. The length of time the temporary mobile sales office is proposed for the site.
- 4147
- 4148 4. The description of potable water and sanitary facilities that will be available for the
- 4149 temporary office.
- 4150
- 4151 D. Inspection by city officials. To ensure compliance with all applicable laws and regulations, the
- 4152 temporary sales office shall be held open for reasonable inspection, without court order, by
- 4153 employees or agents of the City of Cape Coral or any other duly authorized governmental agency.
- 4154

Section. 5.9.8. Temporary Storage Containers.

- 4155
- 4156
- 4157 A. Temporary storage containers are prohibited in any zoning district of the city, except as follows:
- 4158
- 4159 1. Residential zoning districts. No more than one temporary storage container per dwelling unit is
- 4160 permitted in residential zoning districts.
- 4161
- 4162 2. Non-residential zoning districts. No more than two temporary storage containers are permitted
- 4163 in non-residential zoning districts. In the case of multi-tenant non-residential properties, each
- 4164 business or tenant may have a temporary storage container.

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3. This section is not intended to restrict the storage or location of temporary storage containers on the premises of a business which is lawfully engaged in the sale, rental, or distribution of such containers so long as the containers are on the property of such business as "merchandise" and not for temporary storage of items or goods.
4. The provisions of this section shall not apply to prohibit or restrict the location of temporary storage containers on any property for which a valid City of Cape Coral building permit has been issued and is in effect provided that the construction on the property has not been abandoned or allowed to lie idle in violation of Article 5-2 of the City of Cape Coral Code of Ordinances.

B. General Requirements:

1. No temporary storage container may be placed in one or more parking spaces if the required number of parking spaces is reduced below the minimum number of spaces required for the site.
2. No temporary storage container shall block or reduce access to fire lane(s), handicapped parking area(s), or drainage facilities or structures, including swales and catch basins.
3. Temporary storage containers shall not be placed in an easement or in any area designated as a buffer.
4. The maximum size of temporary storage containers shall not exceed ten feet in width, ten feet in height, or 40 feet in length.
5. Non-residential zoning districts. Temporary storage container permits are valid for 30 days. A maximum of two temporary storage container permits may be issued for a property or, in the case of multi-use or multi-unit properties, for each business or commercial enterprise located on the property in any calendar year. Temporary container permits may run consecutively without any minimum period required to elapse between the issuance of permits.
6. Residential zoning districts. Temporary storage container permits are valid for seven days. A maximum of two temporary storage container permits may be issued in any calendar year. Temporary container permits may run consecutively without any minimum period required to elapse between the issuance of permits. No dwelling unit shall utilize a temporary storage container for more than 14 days in any 12-month period.

Section 5.9.9. Temporary Habitable Structures

- A. Purpose and intent. The purpose of this ordinance is to provide a means by which residents, business owners, governmental agencies, and medical facilities are able to live and conduct business on the same site as their damaged structure using temporary housing and temporary

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4210 business structures. When disasters result in significant destruction rendering homes and
4211 businesses uninhabitable, temporary housing and temporary business structures will provide
4212 residents and businesses with the ability to quickly resume normal activities during the restoration
4213 of their permanent structures.
4214

4215 B. Definitions. Terms used in this subsection shall have the meanings as defined in Article 11,
4216 Definitions, unless the context clearly indicates or requires a different meaning.
4217

4218 C. Declaration of habitable structure emergency. Following a disaster, the city shall evaluate the
4219 effect of the disaster on the public health, safety, and welfare. If the City Council finds that the
4220 disaster has negatively affected residential housing or business structures in the city by a
4221 significant degree, the City Council may, by a majority vote, declare the existence of a habitable
4222 structure emergency. Upon the declaration of a habitable structure emergency by vote of the
4223 City Council, the provisions of this subsection shall become effective. The habitable structure
4224 emergency shall identify the disaster which created the emergency situation, and may be
4225 declared for either a specified period of time or an indefinite period of time. If the emergency is
4226 for an indefinite period of time, the emergency shall continue until City Council, by a majority
4227 vote, terminates the habitable structure emergency.
4228

4229 D. Habitable structure emergencies. During a habitable structure emergency, the city will allow, in
4230 accordance with the provisions set forth herein, the use of temporary structures. Temporary
4231 residential structures and temporary business structures must be approved by the city with a
4232 temporary placement permit. Application and issuance criteria for a temporary placement permit
4233 are as set forth below.
4234

4235 E. Temporary business structures may be used for business owners to provide a means for a business
4236 to remain open during the time the permanent business structure is being repaired or replaced.
4237 Temporary business structures may be used to provide temporary facilities for governmental uses,
4238 critical public facilities, charitable, religious, or educational institutions that have been rendered
4239 uninhabitable. The regulations for temporary business structures shall apply to temporary business
4240 structures used for governmental uses, critical public facilities, charitable, religious, or educational
4241 institutions. For these institutions, the habitable structure regulations shall apply; however, the
4242 Building Official may waive any regulations when strict enforcement may preclude them from
4243 carrying out their normal or emergency functions. Critical facilities shall be limited to the following:
4244

4245 1. Federal, state, regional, or local government facilities;
4246

4247 2. State, county, or local emergency operations centers;
4248

4249 3. Police, fire, and emergency medical facilities;
4250

4251 4. Radio and television stations;
4252

4253 5. Public, semi-public, and privately-owned utilities;
4254

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- 4255 6. Hospitals, emergency medical care facilities, infusion centers, dialysis centers, physician's
4256 offices; and
4257
- 4258 7. Nursing homes and assisted living facilities.
4259
- 4260 F. Temporary placement permit. Following the declaration of a habitable structure emergency, a
4261 property owner may apply for a temporary placement permit (TPP) to locate onsite while the
4262 permanent structure is being repaired or rebuilt. A temporary placement permit (TPP) may be
4263 considered by the Building Official when the following criteria are met:
4264
- 4265 1. The existing permanent habitable structure has been determined to be uninhabitable as the
4266 result of a disaster by inspection of the city Building Official;
4267
- 4268 2. The property owner or occupant of a damaged structure desires to locate in a temporary
4269 residential or business structure; and
4270
- 4271 3. A habitable structure emergency must be in effect at the time of application.
4272
- 4273 G. Applications for temporary placement permits.
4274
- 4275 1. Application forms and required fees.
4276
- 4277 2. The following permits are required prior to application for a TPP:
4278
- 4279 a. City permits for hook-up to electric, potable water, and wastewater utilities; and
4280
- 4281 b. A State Department of Health or State Department of Environmental Protection permit
4282 authorizing the connection of the temporary residence to an onsite or small domestic
4283 wastewater treatment system.
4284
- 4285 H. Time limits. Temporary structures may be located for a period not to exceed 30 days. At the end
4286 of that 30-day period, if no application has been filed, the temporary habitable structure must
4287 be immediately removed from the site. If an application has been filed within the 30-day time
4288 period, the temporary habitable structure may remain in place until the TPP is either approved
4289 or denied. Once approved, the temporary habitable structure may remain in accordance with the
4290 TPP. If denied, the temporary structure shall be removed within five days from the date of denial.
4291
- 4292 I. Terms of use of temporary habitable structures. Applicants for a temporary habitable structure
4293 shall be subject to the following:
4294
- 4295 1. Except as otherwise provided herein, temporary structures shall not be occupied until such
4296 time as a valid TPP has been issued and is in effect for the site.
4297
- 4298 2. Connection to sanitary sewer and potable water, or onsite water and wastewater facilities,
4299 and an external electrical system are required within 20 days of issuance of the TPP.
4300 Inspections for such connections shall be called into the city within two days of completion

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4301 of each connection. Electrical and plumbing connections must be done by electricians or
4302 plumbers licensed to do business in the City of Cape Coral.
4303 If there is no electricity to the site due to a power outage, a generator may be used. Upon
4304 restoration of electricity to the property, connection to the local power grid must be made
4305 within 24 hours of power restoration.
4306

4307 3. An application for a building permit is required within three months from the date of
4308 issuance of the TPP for temporary residential structures or within six months for temporary
4309 business structures. Failure to apply for a building permit within the required time shall deem
4310 the TPP revoked pursuant.
4311

4312 4. If a building permit application has not been submitted within the required time-frames, an
4313 applicant may petition City Council for relief from the time restrictions of this subsection.
4314 City Council shall determine whether the failure to apply for a building permit is due to good
4315 cause shown by the applicant. If City Council denies the request for relief, the temporary
4316 structure shall be removed from the site within ten days from the date of denial, or at the
4317 end of the initial three-month period for temporary residential structures, or at the end of
4318 the initial six-month period for temporary business structures, whichever is later.
4319

4320 5. Temporary habitable structures with a TPP may be used until the earlier of: 1) completion of
4321 the rehabilitation or reconstruction of the damaged structure; or 2) until such time as the
4322 owner or occupants of the damaged structure are established in a permanent structure at
4323 another location.
4324

4325 6. Occupants must comply with all mandatory hurricane evacuation requirements.
4326

4327 J. Temporary structures. Temporary habitable structures must comply with the following:
4328

4329 1. Temporary residential structures may consist of a recreational vehicle or a travel trailer.
4330 Temporary business structures may consist of recreational vehicles, travel trailers, or mobile
4331 offices. At the discretion of the Building Official, additional types of temporary business
4332 structures may be allowed, consistent with applicable federal, state, and local regulations and
4333 the provisions of this ordinance.
4334

4335 2. Must meet all applicable National Fire Protection Association and Life Safety codes and
4336 regulations as well as all applicable state and local requirements for tie-downs.
4337

4338 3. Shall contain plumbing (both water and wastewater) and electrical connections and shall be
4339 capable of being hooked up or attached to external plumbing and electrical systems. Temporary
4340 residential structures shall contain a kitchen capable of being hooked up or attached to external
4341 plumbing and electrical systems. Requirements for temporary business structures shall be
4342 based upon the proposed use.
4343

4344 4. Shall meet the Florida Accessibility Code for building construction amenities.
4345

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- 4346 L. Placement of temporary habitable structures. The following site considerations are required for
4347 placement of a temporary habitable structure:
4348
- 4349 1. Temporary residential structures may be anywhere on the site of the existing permanent
4350 residence; however, no a temporary residence is allowed within road rights-of-way or
4351 drainage or utility easements. The city may waive any development regulations regarding lot
4352 areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
4353 temporary residential structures.
4354
- 4355 2. Where more than one existing permanent residence has been rendered uninhabitable, the
4356 Building Official may allow up to the number of damaged permanent residences or residential
4357 units on the site. Such determination shall be based upon consideration of life, health, and
4358 safety requirements.
4359
- 4360 3. For temporary business structures:
4361
- 4362 a. Temporary business structures may be anywhere on the parcel of the existing business;
4363 however, temporary business structures are not allowed within road rights-of-way or
4364 drainage or utility easements. The city may waive any development regulations regarding
4365 lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
4366 temporary business structures.
4367
- 4368 b. Temporary business structures may be on property adjacent to the permanent business
4369 structure if a notarized, written consent from the property owner is submitted at the
4370 time of application for a TPP.
4371
- 4372 c. The establishment of an emergency response team center on a parcel containing a
4373 business does not necessarily preclude the placement of one or more temporary business
4374 structures on the same parcel.
4375
- 4376 d. Parking for a temporary business structure shall be provided based upon the square footage
4377 of the temporary business structure, including handicapped parking. However, a minimum
4378 of two handicapped parking spaces must be provided.
4379
- 4380 e. The entrance to the site shall have a city approved driveway or construction entrance.
4381 Any impervious area added for the temporary business structure shall be subject to
4382 review and approval by the city.
4383
- 4384 f. Additional conditions or restrictions may be placed on a temporary business structure as
4385 a condition of issuance in areas including, but not limited to, the following:
4386 i. Hours of operation;
4387 ii. Traffic control and access;
4388 iii. Lighting; and
4389 iv. Noise control.
4390

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- 4391 M. Issuance and revocation. The Building Official may revoke a TPP upon finding that any of the
4392 following has occurred:
4393
- 4394 1. Failure to connect to water, sewer, and electrical within 20 days of the receipt of the TPP.
4395
 - 4396 2. If an application for a building permit has not been submitted within required time from the
4397 date of receipt of the TPP, or relocation has not occurred before the time of expiration of the
4398 TPP, or, if a building permit later expires.
4399
 - 4400 3. If, upon inspection by the Building Official, a temporary residence is not in compliance with
4401 the requirements of this subsection.
4402
 - 4403 4. Failure to evacuate temporary residence during mandatory evacuation orders.
4404
 - 4405 5. Upon revocation of a TPP, the temporary residence must be vacated and the temporary
4406 residence removed within five days of revocation. Failure to vacate or remove the temporary
4407 residence constitutes a violation subject to the penalty imposed herein.
4408
- 4409 N. Extensions and expiration of temporary placement permits.
4410
- 4411 1. Residential TPPs shall be valid for six months from the date of issuance. The Building Official
4412 may, for good cause shown, issue up to two extensions for six months each, for an 18-month
4413 maximum period of validity from the date of issuance.
4414
 - 4415 2. Non-residential TPPs shall be valid for nine months from the date of issuance. The Building
4416 Official may, for good cause shown, issue up to two extensions for six months each, for a 21-
4417 month maximum period of validity from the date of issuance.
4418
 - 4419 3. All applications for extensions of time must be submitted prior to the date of expiration of
4420 the current TPP.
4421
 - 4422 4. Any further extensions after the second extension and maximum time period may not be
4423 issued by the Building Official: however, applicants may submit a request to City Council for
4424 their approval of any further extension of time for the TPP.
4425
 - 4426 5. Factors to be considered by the Building Official or the City Council in determining whether
4427 to grant an extension of time of the TPP shall include:
4428
 - 4429 a. The ability of the property owner or occupant of the temporary residential or business
4430 structure to secure permanent quarters; and
4431
 - 4432 b. Any hardship that, in the opinion of the Building Official or City Council, as applicable,
4433 would warrant a further extension of the TPP.
4434

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4435 6. Upon the, expiration of a TPP, a temporary residence or business structure must be removed
4436 or placed in proper storage on the property within 30 days. Failure to remove or properly
4437 store the temporary residence or business structure constitutes a violation subject to the
4438 penalty imposed herein.

4439
4440 7. Termination of temporary habitable structure. Once an uninhabitable structure has been
4441 issued a certificate of occupancy or certificate of use for a new or rehabilitated residence,
4442 business, or institutional facility, the TPP shall be deemed to be terminated. A temporary
4443 residential or business structure must then be removed or placed in proper storage on the
4444 property within 30 days. Failure to remove or properly store the temporary residence or
4445 business structure constitutes a violation subject to the penalty imposed herein.

4446
4447 8. Penalty. Any violation of the provisions of this subsection shall be subject to a \$500 fine. Each
4448 day of violation shall constitute a separate offense and shall be punishable as such.

4449

4450 **Section. 5.9.10. Special events.**

4451

4452 A. Permit required. The following types of events shall require a permit:

4453

4454 1. An event expected to draw 500 or more persons at any session, as participants or spectators,
4455 which is proposed to be held on public property; or

4456

4457 2. An event expected to draw less than 500 persons at any session as participants or spectators,
4458 which is proposed to be held on public property, if a street closing is required; or

4459

4460 3. An event expected to draw 500 or more persons at any session as participants or spectators,
4461 which is proposed to be held on private property; if said participants or spectators will occupy
4462 adjacent public streets or public property during the event.

4463

4464 B. An applicant may apply for a permit to sponsor a special event in the city by submitting the following
4465 documents to the Department of Parks and Recreation:

4466

4467 1. A completed, signed, and notarized application shall be submitted no less than 60 days prior to
4468 the opening of the event. Exceptions to the 60-day requirement may be approved by the Director
4469 of Parks and Recreation, based upon the size, duration, and nature of the event. The city reserves
4470 the right to verify the applicant's previous history of sponsoring special events with other
4471 jurisdictions.

4472

4473 2. A non-refundable application and processing fee of \$40.

4474

4475 3. A \$250 refundable clean-up deposit in the form of either cash or certified check payable to the
4476 City of Cape Coral. The property shall be cleaned within 48 hours of the close of the event and
4477 returned to substantially the same condition as just prior to the start of the event, or better. The
4478 clean-up deposit will be refunded to applicant upon satisfactory inspection of the property, by
4479 the city, after the event closes. If, within 48 hours after the close of the event, the property is not

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4480 returned to substantially the same condition as prior to the start of the event, or better, the city,
4481 in its sole discretion, may utilize the clean-up deposit to do so and refund the remainder, if any,
4482 to the applicant.

4483

4484 C. A tent may be erected for a special event for a maximum of five days. Any tent over 900 square feet
4485 will require a fire inspection.

4486

4487 D. Insurance requirements.

4488

4489 1. Certificates of insurance for all properties used for the event must be submitted to the Parks and
4490 Recreation Department for approval by the City Risk Manager no less than 21 days prior to the
4491 event.

4492

4493 2. Applicants and vendors shall have commercial or general liability insurance, including coverage
4494 for independent contractors, premises and operations, contractual liability, products and
4495 completed operations, personal injury, and property damage. Insurance coverage shall be no less
4496 than \$1,000,000 combined single limit for bodily injury and property damage and no less than
4497 \$1,000,000 for liquor liability, if applicable.

4498

4499 3. Vendors shall also have motor vehicle liability insurance for any motor vehicle of no less than
4500 \$1,000,000 and workers' compensation coverage, as required by statute.

4501

4502 4. The City of Cape Coral shall be named as additional insured. Certificates of insurance shall show
4503 the City of Cape Coral as the certificate holder.

4504

4505 E. In determining whether a permit shall be issued, the Director of Parks and Recreation, shall consider
4506 certain criteria including:

4507

4508 1. The size, duration, and nature of the event;

4509

4510 2. Previous history, if any, of organizing events within Lee County and whether said events created
4511 hazards or safety situations;

4512

4513 3. Other events previously scheduled during the same time period within the city;

4514

4515 4. If the applicant has been adjudicated guilty of violating any provision of this Section, said
4516 adjudication may constitute grounds for denial of future special events permits by the city; and

4517

4518 5. The Director of Parks and Recreation, may, in his or her sole discretion, deny the applicant a
4519 permit for the special event within the City of Cape Coral.

4520

4521 F. Special events shall be held in accordance with the following:

4522

4523 1. All applicable city ordinances and building, fire, and electrical codes shall be complied with.

4524

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- 4525 2. Most events shall require off-duty City of Cape Coral police officers to be hired for the duration of
4526 any event to include one hour before opening and one hour after closing. The Police Chief, shall
4527 determine the number of officers required, if any, based upon the size and nature of the event
4528 and past experience with similar events. The cost for the off-duty detail shall be set using the
4529 present rate charged by the Police Department which shall be paid by the applicant prior to the
4530 issuance of the permit. All applicants must comply with any rules or regulations imposed by the
4531 Police Chief, which are consistent with this Section.
4532
- 4533 3. Most events shall require off-duty City of Cape Coral firefighters or paramedics, to be hired for
4534 the duration of any event to include one hour before opening and one hour after closing. The Fire
4535 Chief, shall determine the number of firefighters or paramedics required, if any, based upon the
4536 size and nature of the event and past experience with similar events. The cost for the off-duty
4537 detail shall be set using the present rate charged by the Fire Department which shall be paid by
4538 the applicant prior to the issuance of the permit. All applicants must comply with any rules or
4539 regulations imposed by the Fire Chief, which are consistent with this Section. In the event the Fire
4540 Chief determines that special equipment such as all-terrain vehicles, trailers, fireboats, or fire and
4541 rescue assets, and appropriate personnel for the special equipment are necessary, the city
4542 reserves the right to request reimbursement for all or part of the discretionary cost from the
4543 applicant.
4544
- 4545 4. No open flame or other device emitting flames or fire shall be used in any tent or air supported
4546 structure while open to the public.
4547
- 4548 5. All equipment including, but not limited to, tents, stages, amusement rides, utility areas, ingress
4549 and egress locations, and cooking areas shall be inspected and approved by city fire inspectors or
4550 state officials, if applicable, prior to the opening of the event. If applicable, inspection certificates
4551 and annual permits, as required by the State of Florida, shall be submitted to the city prior to the
4552 opening of the event. All equipment and amusement rides, other than those which are patron-
4553 operated or controlled, shall only be operated by persons over 18 years of age who are employed
4554 by the applicant and who are thoroughly familiar with the operation of said equipment and
4555 amusement rides. The operator of such equipment and amusement rides shall be in the
4556 immediate vicinity of the operating controls at all times during the operation of the equipment
4557 and amusement rides and no unauthorized person shall be permitted to handle the controls
4558 during said operation.
4559
- 4560 6. Special event signs shall be permitted in accordance with the Land Development Code, Article 7.
4561
- 4562 7. Any person, entity, group, or organization engaging in speech, expression, or assembly, which is
4563 protected by the First Amendment of the United States Constitution or by Article I, Section 4 of
4564 the State of Florida Constitution, may do so during a Special Event, subject to the following
4565 reasonable time, place, and manner regulations.
4566
- 4567 a. The Director of Parks and Recreation shall have the authority to designate one or more areas
4568 during any special event for specific activities and to prohibit other activities within
4569 designated areas. The Director of Parks and Recreation shall post designated areas when such
4570 posting is appropriate.

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- 4571
- 4572 b. If sound amplifying equipment is present, it shall be in accordance with a permit issued per
- 4573 Section 5.9.3 Outdoor Entertainment Event. The Director of Parks and Recreation shall
- 4574 establish one or more designated areas on public property within the area of the special event
- 4575 where such amplified sound may occur. If sound amplifying equipment is present on private
- 4576 property at the special event, the Director of Parks and Recreation may establish one or more
- 4577 designated areas on public property within the area of the special event where other
- 4578 amplified sound may occur. If amplified sound is not present on public or private property
- 4579 during the special event, all amplified sound shall be prohibited; however, nothing in this
- 4580 regulation shall serve to prohibit protected speech, expression, or assembly utilizing non-
- 4581 amplified, reasonable sound.
- 4582
- 4583 c. The Director of Parks and Recreation shall be responsible for the provisions of this Section,
- 4584 department rules and regulations, and city ordinances. No action shall be taken to enforce this
- 4585 Section until a warning to cease such a violation has been issued by a person authorized to
- 4586 enforce this Section and the violator continues such violation.
- 4587
- 4588 8. No person shall be permitted into, or remain on, private property covered by any special event
- 4589 permit for an event open to the public without the consent of the permittee.
- 4590
- 4591 9. If a special event is open to the public only upon a payment of an entry fee or charge, no person
- 4592 shall be permitted into the special event without first paying the entry fee or charge.
- 4593
- 4594 10. No person shall unreasonably hamper, obstruct, impede, or interfere with any person, entity,
- 4595 group, or organization hosting a permitted special event.
- 4596
- 4597 G. Order to cease operation. If the Director of the City of Cape Coral Parks and Recreation Department,
- 4598 determines that proper provisions have not been made for the protection of the public health, safety,
- 4599 or welfare, he or she may issue an order to cease operating the special event until satisfactory
- 4600 corrective action has been taken.
- 4601
- 4602 H. All requirements of this Section are subject to modification or waiver by the City Council based upon
- 4603 the size, duration, nature of the event, and the city's involvement.
- 4604
- 4605 I. Intentional underestimation of the expected number of persons attending the event or failure to
- 4606 comply with any provision of this Section, shall constitute a violation of this Section, and shall subject
- 4607 the applicant to the code enforcement provisions and procedures of the City of Cape Coral Code of
- 4608 Ordinances including any and all provisions that allow the city to seek relief as otherwise provided by
- 4609 law.
- 4610
- 4611 J. Penalty. A violation of this Section shall be punishable by a minimum fine of \$100 and a maximum fine
- 4612 of \$500, in addition to the taxation of any court costs, or imprisonment for a term not to exceed 60
- 4613 days, or by both a fine and imprisonment.
- 4614

Section 5.9.11. Temporary Off-Site Vehicle Sales.

4615

4616

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4617 The display of vehicles, including, but not limited to, automobiles, trucks, vans, recreational vehicles
4618 such as camping trailers, motorcycles and recreational terrain vehicles, and water craft such as boats,
4619 jet skis and wave runners, displayed for the purpose of sale, lease, trade or rental, shall be permitted
4620 at an off-site location (that is, on an improved property that is not the approved location of the
4621 business).

4622

4623 A. Temporary Off-Site Vehicle Sales shall adhere to the following requirements:

4624

4625 1. The commercial establishment seeking the temporary sale permit must have the written
4626 permission of the owner, or an authorized representative of the owner, of the property on
4627 which the temporary sale will be conducted. The written permission shall state that, as a
4628 condition of the city's issuance of a permit for the temporary sale, the property owner agrees
4629 to be responsible for any damage to the city's right-of-way or utility systems as a result of the
4630 sale and that any such damage shall be repaired at the expense of the property owner. In
4631 addition, such written permission shall also state that, in consideration of the city's issuance of
4632 the permit, the property owner shall hold the city harmless from any claim, loss, damage, or
4633 cause of action that arises because of the temporary sale or the issuance of the permit
4634 therefore, including any loss or damage to the owner's property or improvements thereon. Such
4635 written permission shall have a notarized signature and shall be filed with the Department of
4636 Community Development.

4637

4638 2. The duration of any such temporary sale shall not exceed five consecutive days.

4639

4640 3. The property on which the off-site sale is conducted shall not have been used for temporary
4641 off-site sales for more than six occasions in the preceding one-year period.

4642

4643 4. Temporary sales shall only be conducted between the hours of 8:00 a.m. to 9:00 p.m.

4644

4645 5. The display of vehicles and the operation of the temporary sale shall not interfere with the
4646 normal parking and traffic circulation of the business(es) located on the site.

4647

4648 6. The temporary off-site vehicle sales permit shall, at all times during the permitted time period
4649 authorized for the sales, be displayed on the site upon which such sales are being conducted.

4650

4651 7. No temporary sale shall begin until a permit therefore has been approved and issued by the city
4652 and all fees are paid in accordance with the city's adopted fee schedule. Prior to the issuance
4653 of a temporary sale permit, a complete application must be submitted to the Department of
4654 Community Development, along with a conceptual site plan. In addition to the proposed site
4655 layout and setbacks, the conceptual site plan shall address vehicular traffic and parking
4656 measures, fire protection measures, sanitary facilities and lighting and areas of electric needs.
4657 The temporary sale permit shall include, as applicable:

4658

4659 a. The right to erect one sign or banner, a maximum of 32 square feet in size, or two such signs
4660 or banners for properties having frontage on more than one street. In lieu of such sign(s) or
4661 banner(s), the applicant may display an inflatable object in accordance with Article 7 of this
4662 code. The applicant shall include with the application sign details such as the placement of

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4663 the sign and anchoring or tie-down measures. The placement and anchoring of the means
4664 of advertisement shall not interfere with the visual safety of motoring traffic.
4665

4666 b. Permission to place one or more tents (up to a total of 425 square feet in size) on the site,
4667 provided that the applicant provides proof of fire-retardancy and adequate tie-down
4668 measures with the application. Tents larger than 425 square feet shall require a separate
4669 tent permit. The location and setback of the tent(s) shall be shown on the conceptual site
4670 plan. If a sales trailer is being used in lieu of a sales tent, the sales trailer shall be handicap-
4671 equipped and accessible in accordance with the Florida Accessibility Code for Building
4672 Construction and ADA requirements and shall be anchored in accordance with all applicable
4673 building code standards.
4674

4675 c. Permission to utilize an electric generator on site. A temporary electric pole shall not,
4676 however, be authorized by the temporary sale permit. A temporary electric pole shall
4677 require a separate permit to be applied for and issued to a licensed electrical contractor.
4678

4679 d. d. The applicant shall request inspection by the city of the items authorized under this
4680 section and shall receive approval thereof prior to beginning the off-site sale activity.
4681 Inspection of items authorized pursuant to subparagraphs a. through c. shall be made by
4682 the Department of Community Development. Items authorized pursuant to subparagraphs
4683 b. and c. shall also be made by the Fire Department.
4684

4685 B. Any other outdoor display on improved property must be approved by City Council and is subject
4686 to review annually at the discretion of Council, except that the City Manager may approve requests
4687 for temporary displays of no longer than five days duration no more than two times per calendar
4688 year for any location or applicant when he or she is satisfied that the request would be in keeping
4689 with the harmony of the zoning district and that it would violate none of the ordinances of the City
4690 of Cape Coral.
4691

4692 **Section. 5.9.12. Tents, for other than Special Events.**
4693

4694 A tent may be permitted to be erected for a for a maximum of five days for an event. Any tent over 900
4695 square feet will require a fire inspection.
4696

4697 **Section. 5.9.13. Other events not named.**
4698

4699 A person desiring to hold any temporary event, not listed herein, shall contact the Community
4700 Development department regarding the necessity of a permit and any additional permissions that may be
4701 required.
4702

4703 **Chapter 10. - SPECIFIC USE REGULATIONS**
4704

4705 **Section. 5.10.1. Purpose and applicability.**
4706

4707 The uses listed in this chapter are deemed to be appropriate uses when developed and operated in
4708 accordance with the requirements listed within each Section. Approval may be granted administratively

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4709 as long as the requirements are met and maintained. The applicant shall provide all documents necessary
4710 to prove that the requirements are met prior to receiving approval to operate and on an ongoing basis as
4711 required for the specific use.

4712

4713 **Section. 5.10.2. Craft breweries, distilleries, and wineries.**

4714

4715 A. Requirements. All craft breweries, distilleries, or wineries which produces alcoholic beverages for
4716 consumption on premise or provide retail sales, shall comply with the following requirements:

4717

4718 1. The business owner shall submit semi-annual production records to the Department of
4719 Community Development for all alcohol and nonalcohol products produced within the
4720 establishment.

4721

4722 2. All mechanical equipment used in the alcohol production process shall be behind a wall or fence
4723 that separates the equipment from any property line abutting a public street other than an alley
4724 when viewed along a line perpendicular or radial to such property line. The wall or fence shall be
4725 opaque and have a minimum height of six feet.

4726

4727 3. Loading and unloading areas shall be provided to the side or rear of the building. Loading and
4728 unloading areas shall not be along the front of the building.

4729

4730 4. Spent or used grain or similar wastes may be placed outdoors for a period not to exceed 24 hours.
4731 The temporary stockpiling for spent or used grain shall be:

4732

4733 a. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the
4734 stockpiled spent grains on the property and the distance of the stockpiled grains from the
4735 property lines and the building containing the artisan brewery, distillery, or winery;

4736

4737 b. Located only along the side or rear of the building; and

4738

4739 c. Fully enclosed in containers that are behind an opaque wall or fence. The wall or fence shall
4740 have a minimum height of six feet. Cargo containers and tractor trailers shall not be utilized
4741 for the temporary stockpiling of spent or used grains even if the cargo containers and tractor
4742 trailers are behind an opaque wall or fence.

4743

4744 B. Waiver of requirements.

4745

4746 1. Permitted and Conditional Uses.

4747

4748 To encourage the repurposing of existing buildings in the NC or SC districts, any craft brewery,
4749 distillery, or winery that is approved as a permitted use, the provisions of this Section may be
4750 waived in part or in their entirety by the Director for the purpose of spurring economic
4751 development based on the criteria contained in Subsection 2.

4752

4753

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- 4754 2. Criteria. In determining whether to waive one or more of these standards the Community
4755 Development Director shall utilize the following criteria:
4756
4757 a. The visibility of the mechanical equipment and loading areas from any public street(s).
4758
4759 b. The proximity and visibility of the mechanical equipment and loading areas from existing
4760 residential development.
4761
4762 c. The existence of site conditions that are not the result of the applicant and which are such
4763 that a literal enforcement of the regulations involved would result in unnecessary or undue
4764 hardship.
4765
4766 d. The effect other regulations would have on the proposed development or other locational
4767 factors that may make compliance with this Section impossible or impracticable.
4768
4769 e. The annual production of alcohol anticipated to be produced by the establishment.
4770
4771 f. The size and extent of the equipment requiring screening.
4772

4773 **Section. 5.10.3. Duplex.**
4774

4775 In RML zoning districts a duplex must meet the following conditions:
4776

- 4777 A. Both units must be served by a single, circular driveway to avoid residents backing into streets.
4778
4779 B. Landscaping shall be provided at a rate of two trees and six shrubs per each 2,500 square feet of the
4780 lot.
4781
4782 C. Attached residential developments shall incorporate three of the following design elements into each
4783 dwelling unit:
4784
4785 1. Dwelling entry as the primary façade feature;
4786
4787 2. Garage door recessed from the front façade, a preferred minimum of four feet;
4788
4789 3. Horizontal eaves broken up with gables, projection, and articulation;
4790
4791 4. Projecting eaves and gables, related to building massing;
4792
4793 5. Building massing and roof form which articulate individual unit definition;
4794
4795 6. Offset of four feet where two garage doors are adjacent to each other; or
4796
4797 7. Projections and decorative elements, such as trellises, for visual interest.
4798
4799

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4800 **Section. 5.10.4. - Home occupations.**

4801
4802 Home occupations shall only be allowed as an accessory use to a residential use, provided the following
4803 conditions are met:

- 4804
- 4805 A. All home occupations operated in or from a residence shall comply with federal, state, and county
4806 rules and regulations, city license regulations specified herein, and any other applicable ordinances of
4807 the City of Cape Coral.
 - 4808
 - 4809 B. No person other than members of the immediate family may be employed for a salary, commission
4810 or upon any other remunerative basis.
 - 4811
 - 4812 C. No condition shall be permitted which tends to cause or increase the fire hazard to the residence,
4813 such as storage of paints or other flammable materials in excess of normal family use.
 - 4814
 - 4815 D. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display
4816 of materials be visible from the outside of the structure.
 - 4817
 - 4818 E. No home occupation shall occupy an area greater than 10% of the living area of the structure.
 - 4819
 - 4820 F. The home occupation shall not generate pedestrian or vehicular traffic beyond that which is
4821 reasonable to the district in which it is located and it shall not involve the use of commercial vehicles
4822 for delivery of materials to or from the residence.
 - 4823
 - 4824 G. The appearance of the structure shall in no way be altered for the conduct of the home occupation
4825 within the structure nor shall the conduct be such that the structure may be recognized as serving a
4826 non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations,
4827 audible or visible interference in any radio or television receiver off the premises, or cause fluctuations
4828 in the electric voltage line off the premises.
 - 4829
 - 4830 H. No business operated under a fictitious name shall be issued a license to operate under this Section.

4831
4832 **Section. 5.10.5. RV resorts**

- 4833
- 4834 A. General provisions. Within a recreational vehicle park, recreational vehicles that meet the
4835 requirements herein, whether self-propelled or pulled by a towing vehicle, and camping cabins, as
4836 regulated herein, may be used for temporary lodging. Facilities to accommodate administration,
4837 maintenance, recreation, dining, and personal care may be included within a recreational vehicle
4838 park. Recreational vehicle parks shall be deemed to be nonresidential uses, and any transient guest
4839 site occupied by a registered guest of a recreational vehicle park shall not be deemed to be a
4840 "residence", "dwelling." or "residential premises" within the meaning of other provisions of the City
4841 of Cape Coral regulations. The management of all transient guest sites and camping cabins must be
4842 performed by a single on-site management company or entity, regardless of whether the transient
4843 guest sites, camping cabins, or both are owned by more than one person or entity.
- 4844

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- 4845 B. Lodging unit characteristics. Lodging shall only be allowed within recreational vehicles and camping
4846 cabins that have all of the following characteristics:
4847
4848 1. Recreational vehicles:
4849
4850 a. Shall be no more than eight and one-half feet in body width, exclusive of safety devices
4851 when slide outs are retracted;
4852
4853 b. Shall have water and wastewater systems designed for continuous connection to water and
4854 wastewater service facilities while parked at a transient guest site; and
4855
4856 c. Shall not be constructed with collapsible partial sidewalls that fold for towing in such a way
4857 as to be unusable for occupancy.
4858
4859 2. Camping cabins shall comply with all of the following criteria:
4860
4861 a. Cabins shall be constructed in compliance with the Florida Building Code;
4862
4863 b. The square footage of interior space shall be a minimum of 200 square feet and a maximum
4864 of 600 square feet;
4865
4866 c. Cabins shall be equipped with electric service and a full bathroom;
4867
4868 d. Cabins are exempt from non-residential design standards, however when there is more than
4869 one cabin in a development, the color scheme, exterior materials on walls, exterior roof
4870 finishing, and roof type must be consistent among all cabins;
4871
4872 e. Corrugated metal is prohibited for exterior walls; and
4873
4874 f. Roofs shall consist of pitched roofs, including but not limited to, gable, hip, or mansard
4875 roofs; however, mansard roofs with flat decks and shed style roofs are prohibited.
4876
4877 C. Location. Recreational vehicle parks are permitted only on property with a Mixed-Use future land
4878 use designation. No new recreational vehicle park shall be developed and no existing recreational
4879 vehicle park shall be expanded within a coastal high hazard area, as depicted in the Comprehensive
4880 Plan.
4881
4882 D. Minimum interior road standards. All interior roads shall be privately owned and maintained, and
4883 shall be constructed in accordance with the structural requirements within the City of Cape Coral
4884 Engineering Design standards.
4885
4886 E. Overall recreational vehicle park area and density. The following requirements shall apply to the
4887 recreational vehicle park net area:
4888
4889 1. Minimum recreational vehicle park net area: 25 acres;
4890

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- 4891 2. Maximum net density: 10 transient guest sites per acre, based on net area; and
4892
4893 3. Minimum net density: For recreational vehicle parks with a net area of less than 50 acres, the
4894 minimum quantity of transient guest sites shall be 50; for recreational vehicle parks with a net
4895 area of 50 or more acres, there shall be no less than one transient guest site per acre, rounded
4896 to the nearest whole number.
4897

4898 For purposes of this section, the net area shall mean the area of the recreational vehicle park minus
4899 extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If an extant
4900 wetland or water area is expanded or contracted, the net area shall be based on the resultant
4901 wetland and water areas.
4902

4903 F. Transient guest sites. Transient guest sites can be designed with either: 1) a pad for parking one
4904 recreational vehicle; 2) one camping cabin; or 3) a pad for parking one recreational vehicle and one
4905 camping cabin. The following standards shall apply to transient guest sites within a recreational
4906 vehicle park:
4907

- 4908 1. Each transient guest site shall be clearly defined by a permanent marker, constructed of a
4909 durable material such as masonry or metal, placed at all corners;
4910
4911 2. No transient guest site shall include any space used for common areas, such as roadways,
4912 sidewalks, or community recreation areas;
4913
4914 3. No more than 25% of the total transient guest sites shall be developed with a camping cabin.
4915 Transient guest sites with a pad for parking one recreational vehicle and one camping cabin
4916 shall not be factored into the 25% limitation to the number of camping cabins;
4917
4918 4. All transient guest sites shall be designed to provide runoff of surface water to a drainage
4919 system or basin external to the transient guest site;
4920
4921 5. Impervious area shall not exceed 65% of any transient guest site. Pervious areas of each
4922 transient guest site shall be covered in turf, groundcover, shrubs, trees, or any combination
4923 thereof;
4924
4925 6. Each transient guest site shall have direct vehicular access to an interior road. No transient guest
4926 site shall have direct vehicular access to a public street;
4927
4928 7. No transient guest site shall be located closer than 40 feet to any public street right-of-way;
4929
4930 8. Separation: Each transient guest site shall be designed to ensure minimum separation between
4931 units. When measuring the distance from a recreational vehicle pad, paved areas that project
4932 more than four and one-half feet from the centerline of the pad, e.g., driveway apron flares,
4933 walkways, and patio areas, may be excluded. Distances of separation shall be as follows:
4934
4935 a. Between camping cabins: 15 feet;
4936

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- 4937 b. Between a camping cabin and a recreational vehicle pad on the same transient guest site:
4938 15 feet;
4939
- 4940 c. Between a camping cabin and a recreational vehicle pad on a separate transient guest site:
4941 20 feet;
4942
- 4943 d. Between a transient guest site boundary line and a camping cabin: 7½ feet; and
4944
- 4945 e. Between transient guest site boundary line and a recreational vehicle pad: 7½ feet.
4946
- 4947 9. Each transient guest site designed with a pad for parking a recreational vehicle shall have the
4948 following standards:
4949
- 4950 a. Maximum number of recreational vehicles: 1;
4951
- 4952 b. Minimum site area: 2,000 square feet;
4953
- 4954 c. Maximum site area: 1 acre;
4955
- 4956 d. Minimum site width: 35 feet, measured at right angles to and between the designated side
4957 boundary lines; and
4958
- 4959 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
4960 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
4961 asphalt as a paving material for vehicle pads and driveways is prohibited.
4962
- 4963 10. Each transient guest site developed with a camping cabin shall have the following standards:
4964
- 4965 a. Maximum number of camping cabins: 1;
4966
- 4967 b. Minimum site: 2,500 square feet; and
4968
- 4969 c. Parking space: Each site developed with a camping cabin shall include a minimum of one
4970 automobile vehicle parking space, paved with concrete or pavers, or as otherwise approved
4971 by the city, with minimum dimensions of 9 feet by 18 feet. This limitation shall not apply to
4972 transient guest sites with a pad for parking one recreational vehicle and one camping cabin.
4973 The use of asphalt as a paving material for vehicle parking spaces is prohibited.
4974
- 4975 11. Each transient guest site developed with both a pad for parking a recreational vehicle and with
4976 a camping cabin shall have the following standards:
4977
- 4978 a. Maximum number of units: one camping cabin and a pad for parking no more than one
4979 recreational vehicle;
4980
- 4981 b. Minimum site area: 5,000 square feet;
4982

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- 4983 c. Maximum site area: 1 acre;
4984
4985 d. Minimum site width: 35 feet, measured at right angles to and between the designated side
4986 boundary lines; and
4987
4988 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
4989 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
4990 asphalt as a paving material for vehicle pads and driveways is prohibited.
4991
4992 12. Each transient guest site may also include accessory structures for outdoor living, including, but
4993 not limited to, an outdoor kitchen, fire pit, spa, hot tub, gazebo, shade shelter, marine
4994 improvements, and other hardscape features.
4995
4996 G. Utilities. Each transient guest site shall have direct connections to central potable water, central
4997 wastewater, and electric services. All water and wastewater utility infrastructure within a
4998 recreational vehicle park shall be privately owned and maintained, except as otherwise approved
4999 by the City Council. Within the recreational vehicle park, all telephone, electric, television cable
5000 service, or other wires of all kinds must be underground, provided, however, that appurtenances
5001 to these systems which require aboveground installation may be exempted from these
5002 requirements and primary facilities providing service to the site of the development or necessary
5003 to service areas outside the planned development project may be exempted from this requirement.
5004
5005 H. Lighting. All roads, walkways and parking areas shall be provided with lighting adequate to ensure
5006 the safety of vehicular and pedestrian traffic. All lighting shall be designed so that it is not directed
5007 toward neighboring properties.
5008
5009 I. Parking. In addition to parking spaces on transient guest sites, a minimum of one parking space per
5010 ten recreational vehicle sites within the park shall be provided for visitors.
5011
5012 J. Designated storage. Except for boats at a rental facility or moored at a marine improvement, boats
5013 and utility trailers (tow dollies, "toy haulers", etc.) shall be stored in a designated storage area that
5014 shall occupy no more than 5% of the gross area of the park. Such storage area shall be for the
5015 exclusive use of registered guests. only during the period the guest is a registered occupant of a
5016 transient guest site. Designated storage areas shall be enclosed by an opaque visual barrier that is
5017 a minimum of eight feet in height. The following materials, either singly or in any combination, are
5018 the only materials that may be used to form the opaque visual barrier:
5019
5020 1. Wood, plastic, vinyl, or metal fencing;
5021
5022 2. Concrete block and stucco wall;
5023
5024 3. Brick wall; or
5025
5026 4. Formed, decorative, or precast concrete.
5027

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5028 No storage area shall be located closer than 40 feet to any exterior property line of the recreational
5029 vehicle park. No repair or maintenance other than cleaning shall be conducted within such storage
5030 area.
5031

5032 K. Recreation area. At least one recreation area shall be provided within the park, designed and
5033 improved to serve the recreational needs of the park users. The recreation area(s) shall be a
5034 minimum of 500 square feet per transient guest site. All recreation areas shall be accessible to all
5035 occupants of the park. If more than one recreation area is provided, no recreation area shall be less
5036 than 10,000 square feet. A minimum of 50% of the total required recreation area shall be comprised
5037 of recreation within a building, or outdoor facilities for active recreation, including, but not limited
5038 to, swimming pools, ball fields, tennis courts, or play lots with facilities. No portion of any transient
5039 guest site, perimeter buffer yard, internal road or road easement, or stormwater management area,
5040 except as provided below, shall be counted as required recreation area. Bodies of water may be
5041 counted toward required recreation area if recreational use is not otherwise prohibited on or in the
5042 body of water and if recreational amenities, including, but not limited to, a beach, boat rental or
5043 launching facilities, are provided. In no event, however, shall bodies of water comprise more than
5044 50% of the required recreation area.
5045

5046 L. Landscaping plan. Requests for special exception approval for a recreational vehicle park shall be
5047 accompanied by a landscaping plan that provides, at a minimum, compliance with Section 5.5.
5048

5049 M. Phasing. The Director shall not issue a certificate of use for a recreational vehicle park prior to
5050 completion of construction of all of the transient guest sites, internal roads, drainage system,
5051 potable water and wastewater utilities, landscaping and buffering, and accessory structures
5052 approved for the park, unless the Hearing Examiner and Appeals (or the City Council, when
5053 applicable) approves a phasing plan that identifies size, location, sequence, and timing of the
5054 various phases of the development. If a phasing plan is approved, the Director shall not issue a
5055 certificate of use for any phase that has not been completed in its entirety.
5056

5057 N. Operation generally.
5058

5059 1. Responsibilities of management. The owner of a recreational vehicle park shall, at all times,
5060 maintain the park and its facilities in a clean, orderly and sanitary condition. The park
5061 management shall inform all registered occupants of transient guest sites of the provisions of
5062 this section and other related ordinances and statutes, and of their responsibilities thereunder.
5063

5064 2. Certificate of use required. No lodging within recreational vehicles or camping cabins shall occur
5065 prior to the issuance of a certificate of use for the recreational vehicle park.
5066

5067 3. Length of occupancy. No owner of any recreational vehicle park shall allow or permit any
5068 transient guest sites in a recreational vehicle park to be rented to or occupied by any person or
5069 recreational vehicle for any period of time that would permit or allow any person or recreational
5070 vehicle to remain at such recreational vehicle park for more than 180 days in any 365-day
5071 period.
5072

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- 5073 4. Register of occupants. The owner or operator of any recreational vehicle park shall file a report
5074 with the Director showing the guest names and addresses, recreational vehicle license numbers,
5075 dates of arrival and departure, and the transient guest site occupied by each guest at the
5076 recreational vehicle park during the preceding calendar quarter. Such reports shall be filed not
5077 later than April 15th, July 15th, October 15th and January 15th for the immediately preceding
5078 calendar quarter.
5079
- 5080 O. Inspections authorized. The Director is hereby authorized to make periodic inspections of the
5081 recreational vehicle park and transient guest sites for the purpose of determining satisfactory
5082 compliance with the regulations of this section pertaining to the health, safety and welfare of the
5083 community.
5084
- 5085 P. Incidental facilities and amenities. Various facilities and amenities incidental to a recreational
5086 vehicle park are permissible, however, all facilities and amenities must meet all requirements stated
5087 herein together with any additional conditions of approval.
5088
- 5089 1. The following facilities may be approved as incidental to a recreational vehicle park:
5090
- 5091 a. Administrative offices;
 - 5092
 - 5093 b. Caretaker or watchperson residence (no more than one);
 - 5094
 - 5095 c. Car wash (Recreational vehicle washing facilities only);
 - 5096
 - 5097 d. Clubhouses;
 - 5098
 - 5099 e. Gatehouses;
 - 5100
 - 5101 f. Grounds maintenance facilities;
 - 5102
 - 5103 g. Laundry facilities:
 - 5104
 - 5105 h. Marine improvements;
 - 5106
 - 5107 i. Restrooms and community showers; and
 - 5108
 - 5109 j. Sanitary dump stations.
5110
- 5111 2. The following amenities are permitted as amenities incidental to the recreational vehicle park
5112 even though they are typically land use classifications identified as individual "uses" within
5113 other zoning districts.
5114
- 5115 a. Banquet halls;
 - 5116
 - 5117 b. Bars;
 - 5118

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- 5119 c. Commercial Recreation – indoor and outdoor;
5120
5121 d. Cultural and civic facilities;
5122
5123 e. Personal services;
5124
5125 f. Professional Offices;
5126
5127 g. Restaurant, no drive-thru; and
5128
5129 h. Retail.
5130
- 5131 3. For recreational vehicle parks with no frontage on any type of arterial or collector street, food
5132 stores, personal services, and restaurants shall be limited as follows:
5133
- 5134 a. Vehicular ingress/egress for parking lots supporting an amenity shall not be directly
5135 accessible from any public street, but shall only be accessible from a road within the park;
5136
- 5137 b. No signs shall be visible from outside the recreational vehicle park; and
5138
- 5139 c. The cumulative gross leasable floor area occupied by food stores, personal services, and
5140 restaurants shall not exceed 3% of the net area of the recreational vehicle park. For
5141 purposes of this section, the net area shall mean the area of the recreational vehicle park
5142 minus extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If
5143 an extant wetland or water area is expanded or contracted, the net area shall be based on
5144 the resultant wetland and water areas. Food stores shall not occupy more than 25,000
5145 square feet of contiguous gross leasable floor area.
5146
- 5147 4. For recreational vehicle parks with frontage on any type of arterial or collector street, food
5148 stores, personal services, and restaurants shall be limited as follows:
5149
- 5150 a. Vehicular ingress and egress for parking lots supporting food stores, personal services, and
5151 restaurants may be directly accessible from a public street. Visible evidence of the
5152 commercial character of food stores, personal services, and restaurants may be observable
5153 from a street outside the park. For food stores, personal services, and restaurants that have
5154 vehicular ingress/egress directly accessible from a public street, or present visible evidence,
5155 observable from a street outside the park, of their commercial character, no certificate of
5156 use shall be issued until a minimum of 20% of the total transient guest sites for the entire
5157 recreational vehicle park have been constructed or installed; and
5158
- 5159 b. The cumulative gross leasable floor area of food stores, personal services, and restaurants
5160 shall not occupy more than 3% of the net area of the park. Not more than 25,000 square
5161 feet of contiguous gross leasable floor area shall be devoted to food stores.
5162
- 5163 5. In the event that a recreational vehicle park fails to meet the minimum required number of
5164 transient guest sites as a result of removal of transient guest sites or conversion to another use,

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5165 or if the offering of lodging at transient guest sites is discontinued for one year or more, any
5166 activity that had previously been approved as an amenity incidental to the recreational vehicle
5167 park use shall lose its status as an amenity and shall be treated in the same manner as a
5168 nonconforming use.
5169

5170 Q. Prohibitions. The following uses, activities or improvements listed below are prohibited within a
5171 recreational vehicle park:
5172

5173 1. Permanent residential use is prohibited, except in an approved caretaker/watchperson
5174 residence.
5175

5176 2. Lodging within any structure other than an approved recreational vehicle, camping cabin,
5177 caretaker, or watchperson residence (e.g., tent, mobile home, garage, shed, or agricultural
5178 building) is prohibited within a recreational vehicle park.
5179

5180 3. The storage of a recreational vehicle, boat, or accessory trailer during any period when the
5181 owner or lessee of the vehicle is not a registered occupant of a transient guest site is prohibited.
5182 Storage of boats and accessory trailers is prohibited on individual transient guest sites or on
5183 internal roads.
5184

5185 4. The parking of a recreational vehicle, automobile, or truck in an area not designated for parking
5186 is prohibited.
5187

5188 5. Drive-thru facilities for restaurants are prohibited.
5189

5190 6. Fuel pumps for retail sales of fuel are prohibited.
5191

5192 R. Evacuation plan. Prior to issuance of a certificate of use for a recreational vehicle park, the
5193 developer shall provide an emergency response plan, approved by the Fire Chief that requires the
5194 removal of all recreational vehicles in the event of a hurricane. At a minimum, all recreational
5195 vehicles and occupants shall evacuate when notified of a "Hurricane Watch" being issued for the
5196 city. Any amendment by the developer to an approved evacuation plan requires approval by the
5197 Fire Chief.
5198

5199 **Section. 5.10.6. Micro cottage Village Development (MCVD).**
5200

5201 Micro cottage Village Developments (MCVDs) provide a location for City residents who wish to reside on
5202 lots which are much smaller than the typical Cape Coral property. This housing type encourages efficient
5203 use of land, affordability, and energy conservation. Micro cottage housing allows for a higher density
5204 single family development than is normally allowed. This is made possible by smaller home sizes, clustered
5205 home sites, and parking and design standards. These villages shall be developed to ensure that they
5206 provide an attractive, clean option for these residents which also will not have a deleterious effect on
5207 nearby properties.
5208

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- 5209 A. Minimum area and density requirements. The minimum allowable area for a MCVD shall be three
5210 acres and the maximum density of micro cottages shall not exceed 8.8 dwelling units per acre. The
5211 minimum lot size for individual lots shall be 5,000 square feet.
5212
- 5213 B. Buffering. Sites adjacent to single family zoning and land use shall provide a 25' buffer along each
5214 abutting perimeter.
5215
- 5216 C. Availability of infrastructure. MCVDs shall be serviced by city utilities.
5217
- 5218 D. Clustering. A MCVD is composed of clusters of micro cottages.
5219
- 5220 1. Minimum units per cluster: 4.
5221
- 5222 2. Maximum units per cluster: 12.
5223
- 5224 E. Common open space. Each cluster of micro cottages shall have common open space and provide a
5225 sense of openness and community for residents. Open space requirements are as follows:
5226
- 5227 1. Each cluster of micro cottages shall have common open space to provide a sense of openness and
5228 community for residents;
5229
- 5230 2. At least 400 square feet per micro cottage of common open space is required for each cluster.
5231
- 5232 3. Each area of common open space shall be in one contiguous and useable piece.
5233
- 5234 4. To be considered as part of the minimum open space requirement, an area of common open
5235 space must have a minimum dimension of 20 feet on all sides.
5236
- 5237 5. The common open space shall be at least 3,000 square feet in area, regardless of the number of
5238 units in the cluster.
5239
- 5240 6. Required common open space may be divided into no more than two separate areas per cluster.
5241
- 5242 7. At least two sides of the common open area shall have micro cottages along its perimeter.
5243
- 5244 8. Parking areas, yard setbacks, private open space, and driveways do not qualify as common open
5245 space.
5246
- 5247 F. Community Buildings. Community buildings are permitted in MCVDs. Community buildings shall be
5248 clearly incidental in use and size to dwelling unit and shall be no more than one story.
5249
- 5250 G. Ownership. Community buildings, parking areas and common open space shall be owned and
5251 maintained commonly by the MCVD residents, through a condominium association, a homeowners'
5252 association, or a similar mechanism, and shall not be dedicated to the City.
5253
- 5254 H. Size. Micro cottages shall meet the following requirements:

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- 5255
- 5256 1. The gross floor area of each micro cottage shall not exceed 1,100 square feet.
- 5257
- 5258 2. At least 25% of the micro cottages in each cluster shall have gross floor area less than 1,000 square
- 5259 feet.
- 5260
- 5261 3. Micro cottage areas that do not count toward the gross floor area or footprint calculations are:
- 5262
- 5263 a. Interior spaces with a ceiling height of six feet or less, such as in a second floor are under the
- 5264 slope of the roof;
- 5265
- 5266 b. Architectural projections—such as bay windows, fireplaces, or utility closets—no greater than
- 5267 24 inches in depth and six feet in width;
- 5268
- 5269 c. Attached unenclosed porches;
- 5270
- 5271 d. Garages or carports;
- 5272
- 5273 4. The footprint of each micro cottage shall not exceed 850 square feet.
- 5274
- 5275 I. Unit Height. The maximum height of a micro cottage shall be 25 feet.
- 5276
- 5277 J. Orientation of micro cottages.
- 5278
- 5279 1. Each dwelling unit shall be clustered around a common open space. Each unit shall have a primary
- 5280 entry and covered porch oriented to the common open space.
- 5281
- 5282 2. Lots in a MCVD can abut either a street or an alley.
- 5283
- 5284 3. Each unit abutting a public street (not including alleys) shall have a façade, secondary entrance,
- 5285 porch, bay window or other architectural enhancement oriented to the public street.
- 5286
- 5287 K. Micro cottage Setbacks. The minimum setbacks for all structures (including micro cottages, parking
- 5288 structures, and community buildings) in a MCVD are:
- 5289
- 5290 1. Ten feet from any public right-of-way.
- 5291
- 5292 2. Ten feet from any other structure.
- 5293
- 5294 3. Micro cottages shall be no more than 25 feet from the common open area, measured from the
- 5295 façade of the micro cottage to the nearest delineation of the common open area.
- 5296
- 5297 4. No part of any structure in the MCVD (including micro cottages, parking structures, and community
- 5298 buildings) shall be more than 150 feet, as measured by the shortest clear path on the ground,
- 5299 from fire department vehicle access.
- 5300

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5301 L. Porches. Micro cottage units shall have covered front porches. The front porch shall be oriented
5302 toward the common open space. Covered porches shall have at least 60 square feet in area.
5303

5304 M. Garages. Garages are not required or encouraged in MCVDs.
5305

5306 N. Parking.
5307

5308 1. Minimum Number of Off-Street Parking Spaces:

Micro cottage	Required Parking
600-800 square feet	1.00 space
800-1000 square feet	1.5 spaces
1000-1100 square feet	2.00 spaces

5309
5310 2. The MCVD shall include additional guest parking. A minimum of .5 guest parking spaces per
5311 dwelling unit, rounded up to the next whole number, shall be provided for each Micro cottage
5312 cluster. Guest parking may be clustered with resident parking; however, the spaces shall include
5313 signs identifying them as reserved for visitors.
5314

5315 3. Parking shall be separated from the common area and public streets by landscaping or
5316 architectural screening. Solid board fencing shall not be allowed as an architectural screen.
5317

5318 4. Parking areas shall be accessed only by a private driveway or a public alley.
5319

5320 5. The design of garages and carports, including roof lines, shall be similar to and compatible with
5321 that of the dwelling units within the MCVD.
5322

5323 6. Parking areas shall be limited to no more than five contiguous spaces.
5324

5325 O. Walkways.
5326

5327 1. A MCVD shall have sidewalks along all public streets.
5328

5329 2. A system of interior walkways shall connect each micro cottage to each other and to the parking
5330 area, and to the sidewalks abutting any public streets bordering the MCVD.
5331

5332 3. Walkways and sidewalks shall be at least four feet in width.
5333

5334 **Section 5.10.7. Roadside Food and Vegetable Stand.**
5335

5336 Roadside food and vegetable stands shall be subject to the following requirements:
5337

5338 A. Must meet the minimum building setback requirements for the district;
5339

5340 B. May be in operation during daylight hours only;
5341

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- 5342 C. Shall provide a designated parking area at the side or rear of the roadside food and vegetable stand
5343 sufficient to accommodate ten vehicles;
5344
5345 D. Shall be no larger than eight feet by 32 feet in dimensions, and must be structurally sound;
5346
5347 E. Must meet state, county, or local access requirements;
5348
5349 F. May sell fruits, plants, and vegetables only;
5350
5351 G. Must be built with tie downs capable of withstanding 110 mph winds; and
5352
5353 H. Must contain adequate toilet facilities.
5354

5355 **Section 5.10.8. Accessory Parking Lots.**

5356
5357 Accessory parking lots shall meet the following requirements:
5358

- 5359 A. The proposed parking on RML property shall be used only in connection with an existing use or
5360 structure in the C, CC, and P zoning districts.
5361
5362 B. The parcel shall meet minimum dimensional requirements.
5363
5364 C. The area within the RML zoning district proposed for commercial parking shall be composed of
5365 contiguous lots within that district and owned by the commercial or professional property owner
5366 or corporation served by the parking site.
5367
5368 D. A minimum of 40% of the required parking spaces shall be located within a Commercial or
5369 Professional zoning district. The number of required parking spaces shall be determined by Article
5370 6.
5371
5372 E. The location of RML areas proposed for parking shall be immediately to the rear, or across any
5373 service alley, and within the extended side yard lot lines of the property that the parking is intended
5374 to serve.
5375
5376 F. Driveways from the accessory parking in RML areas to residential streets shall not be permitted.
5377 However, commercial property fronting on Del Prado Boulevard or Santa Barbara Boulevard on one
5378 side and on a single-family residential district, as designated on the adopted Future Land Use Map,
5379 on the opposite side, shall be permitted access for the commercial property to the single-family
5380 residential street in accordance with the City of Cape Coral Engineering Design Standards.
5381
5382 G. The driveway shall be included in any traffic impact study for the property to determine the
5383 driveway's impact on the local street and its intersections and if improvements are needed.
5384
5385 H. Where necessary for safe and efficient turn movements, the city may restrict certain turn
5386 movements at the driveway accessing the single-family residential street.
5387

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- 5388 I. For a commercial property fronting on Del Prado Boulevard on one side and on a single-family
5389 residential district, as designated on the adopted Future Land Use Map, on the opposite side, access
5390 for the commercial property shall be permitted to the single-family residential street only on those
5391 streets which provide access to existing and planned signalized intersections on Del Prado
5392 Boulevard.
5393
- 5394 J. The parking area shall be classified as part of the entire non-residential building site.
5395
- 5396 K. A landscape plan for the commercial parking area proposed in an R-3 district shall be submitted
5397 with the application for a special exception use. Landscape plans shall be drawn to scale, including
5398 dimensions and distances, and shall clearly delineate.
5399
- 5400 1. Existing and proposed parking spaces, or other vehicular use areas, access aisles, driveways,
5401 and ingress and egress points;
5402
- 5403 2. The location and floor area of existing building to be served;
5404
- 5405 3. The source of water supply for plantings and materials to be installed or, if existing, to be used
5406 in accordance with the requirements hereof.
5407
- 5408 4. All parking areas shall be landscaped in accordance with the requirements of Section 5.5.13 of
5409 this Article.
5410
- 5411 5. There shall be a minimum of seven feet of green area in side setbacks and ten feet of green
5412 area in setbacks from street lot lines which face residential areas.
5413
- 5414 6. There shall be a continuous undulating 18 inch to three feet high by five feet deep berm of earth
5415 extending along the property facing streets.
5416
- 5417 I. Lighting. If any parking areas are artificially lighted, they shall be so designed and arranged that
5418 lighting is primarily directed on-site. Such areas shall not be lighted at any time other than during
5419 the same hours that the use to which the parking is appurtenant is open for business, except for
5420 necessary security lighting.
5421
- 5422 J. Stormwater Management. All parking areas shall incorporate appropriate stormwater quality
5423 design features to be reviewed with the SDP application.
5424

5425 **Section. 5.10.9. Solar Arrays.**
5426

5427 Solar Arrays shall meet the following requirements:
5428

- 5429 A. These facilities may only be permitted in the Agriculture, Institutional, or Industrial zoning districts.
5430
- 5431 B. Solar Arrays may only be permitted on lots over one acre in size.
5432
- 5433 C. Must maintain appropriate security fencing and signs for protection.

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- 5434
5435 D. Solar Arrays shall be effectively screened with a fence, landscape material, or a combination thereof,
5436 where visible from an abutting property or right-of-way as determined by the Director.
5437
5438 1. The structures may be screened with an opaque wall or fence, up to the height allowed in that
5439 zoning district.
5440
5441 2. Alternatively, the structures may be screened with shrubs that meet the following requirements:
5442
5443 a. A row of shrubs shall be planted along all sides of the facility for which screening is required.
5444
5445 b. All shrubs required for screening shall be a minimum of 32 inches in height and be in at least
5446 a seven-gallon container size at the time of planting. All shrubs shall be planted at a spacing
5447 of three feet apart as measured on center.
5448
5449 c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be
5450 maintained in good condition as long as the structures requiring screening remain.
5451
5452 d. An adequate combination of the two screening options may be permitted.
5453

5454 **Section 5.10.10. Vehicle Sales, Light.**

5455
5456 Vehicle Sales, Light must meet the following requirements:

- 5457
5458 A. The minimum parcel size shall be 2 acres.
5459
5460 B. Vehicle Sales, Light shall be a standalone use only.
5461
5462 C. All display areas must be on a impervious surface such as asphalt or concrete.
5463
5464 D. All repairs must be ancillary and must be conducted within a building.
5465
5466 E. Other than vehicles, no outdoor display of any other items shall be permitted.
5467

5468 **Section 5.10.11. Wireless Communication Facilities**

5469
5470 Wireless Communication Facilities are permitted with the following requirements:

- 5471
5472 1. Adequate documentation that co-location on an existing approved tower or on an existing
5473 building or structure, has been attempted and is not feasible. Such documentation shall include:
5474
5475 2. The results of a designed service study demonstrating to the satisfaction of the city that the
5476 equipment planned for a proposed communication tower cannot be accommodated on an
5477 existing or approved and un-built structure.
5478

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- 5479 3. The designed service study analysis shall be based upon a search area radius of three-quarters of
5480 a mile minimum distance from the location of the intended WCF or tower, including areas outside
5481 the City of Cape Coral. At the discretion of the city, based on the city's knowledge of existing co-
5482 location opportunities, the city may allow an applicant to provide an affidavit from a professional
5483 radio frequency engineer which establishes the search area diameter for the proposed WCF or
5484 tower location and identifies all other alternatives in the area. Further information may be
5485 required by the city on the ability of the WCF or tower to be accommodated on specific sites
5486 within three-quarters of a mile of the proposed WCF or tower.
5487
- 5488 4. When co-location is determined by staff to be infeasible, the determination shall be based upon
5489 the results of the designed service study and other evidence provided by the applicant
5490 documenting one or more of the following reasons:
5491
- 5492 a. Structural limitation. The proposed equipment would exceed the structural capacity of the
5493 existing or approved structure, as documented by a licensed professional engineer, and the
5494 existing or approved structure cannot be reinforced, modified, or replaced to accommodate
5495 the planned or equivalent equipment at a reasonable cost.
5496
 - 5497 b. Interference. The proposed equipment would cause interference or obstruction materially
5498 impacting the usability of other existing or planned equipment at the tower or building as
5499 documented by a qualified professional and the interference or obstruction cannot be
5500 prevented at a reasonable cost.
5501
 - 5502 c. Insufficient height. Existing or approved towers and buildings within the search radius cannot
5503 accommodate the planned equipment at a height necessary to function reasonably as
5504 documented by a licensed, if applicable, professional.
5505
 - 5506 d. Lack of space. Evidence from the applicant, verified by a licensed professional, of the lack of
5507 space on existing towers or other structures within the search radius to accommodate the
5508 proposed facility.
5509
 - 5510 e. Other factors. Other reasons that make it unfeasible to locate the planned equipment upon
5511 an existing or approved tower or building as documented by a qualified and licensed, if
5512 applicable, professional.
5513
 - 5514 f. Technical consultants. The city shall have the right to retain independent technical
5515 consultants and experts that it deems necessary to properly evaluate applications for wireless
5516 telecommunications facilities or towers and to charge reasonable fees as necessary to offset
5517 the cost of such evaluations.
5518

5519 **Section. 5.10.12. Wireless Facility Design standards.**
5520

5521 In addition to any other applicable requirements provided elsewhere in the Land Development Code, an
5522 application for a communication tower shall include the following:
5523

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- 5524 A. Fall zone. In the event of a catastrophic failure or collapse, towers shall be designed to collapse within
5525 an engineered fall zone lying wholly within the lot lines of the parcel containing the tower. Such fall
5526 zone shall be certified by a professional engineer, licensed in the State of Florida.
5527
- 5528 B. Tower design for co-location. A proposed tower shall be designed to allow for future rearrangement
5529 of antennas, to provide space for antennas to be mounted at varying elevations, and to accommodate
5530 co-location.
5531
- 5532 C. Monopoles or stealth. All towers shall be monopoles or stealth design.
5533
- 5534 D. Illumination. A tower shall not be artificially lighted except as may be required by federal or state
5535 regulations.
5536
- 5537 E. Surface or finish color. All towers shall be painted or have a non-contrasting finish that minimizes the
5538 visibility of the facility from public view, except where contrasting color is required by federal or state
5539 regulation. In addition, the exterior of support facilities shall be designed to be compatible with the
5540 architectural design prevailing among the structures in the surrounding developed area.
5541
- 5542 F. Sign. The main access gate in the tower shall have affixed to it a sign not to exceed two feet by three
5543 feet in size which displays the owner's or permittee's name and an emergency telephone number.
5544
- 5545 G. Maximum height. The maximum height of towers shall be 100 feet if the tower is designed for one
5546 service provider, 120 feet if the tower is designed to accommodate two service providers, or 140 feet
5547 if the tower is designed to accommodate three or more service providers.
5548
- 5549 H. Landscape screening. The accessory components to the tower shall be screened from view by shrubs
5550 maintained at a height of six feet, immediately adjacent to the fence surrounding the facility and
5551 minimum of eight trees planted outside of the shrub buffer
5552

5553 **Section. 5.10.13. Mobile food vendor.**
5554

5555 Mobile food vendors may include vehicles, carts, or trailers, hereafter referred to as food trucks, may be
5556 permitted on public or private property subject to the following requirements:
5557

- 5558 A. Mobile operations may only be conducted from 7:00 a.m. to 10:00 p.m. on weekdays and from 7:00
5559 a.m. to 11:00 p.m. on weekends.
5560
- 5561 B. For purposes of these requirements, the vending area includes the space taken up by: a portable
5562 stand, vehicle, or trailer, any signs, equipment, merchandise, and any tents, tarpaulins, canopies, or
5563 awnings. Mobile vending areas shall not be in:
5564
- 5565 1. Driveway aisles, no parking zones, landscaped area, loading areas, or fire lanes; mobile operations
5566 shall not impede the on-site circulation of motor vehicles.
5567
 - 5568 2. Food trucks shall not be in ~~required~~ parking spaces unless the number of spaces on the site
5569 exceeds the minimum amount required for uses on the property. The utilization of an off-street

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- 5570 parking space for the operation of a mobile operation must not cause the site to become deficient
5571 in required off-street parking.
5572
- 5573 3. Food trucks shall not operate on the public right-of-way.
5574
- 5575 C. Food trucks may operate on vacant, unimproved property only when approved as a special event
5576 pursuant to Section 5.9.10 of this Article.
5577
- 5578 D. The total space dedicated to the mobile operation and vending area shall not exceed an area of 600
5579 square feet.
5580
- 5581 E. Food trucks shall be a minimum of 20 feet from the property line of an existing residential use, except
5582 that a mobile food unit may be a minimum of 10 feet from the property line if the residential use is
5583 separated by a six-foot high masonry wall.
5584
- 5585 F. Alcoholic beverage sales and use of sound amplification devices are prohibited.
5586
- 5587 G. Electric service connection to an on-site approved outlet is permitted, provided that no wiring or
5588 cables are run beyond the vending area or pose any danger to the patrons.
5589
- 5590 H. Prior to permitting a food truck to operate on a site, the vendor must submit an application for
5591 operation and the following documents:
5592
- 5593 1. A site plan or survey indicating the following:
5594
- 5595 a. Location of the individual mobile food unit and associated vending area. Mobile operations
5596 shall be located so as to minimize the impacts on adjacent residential uses.
5597
- 5598 b. Location of improvements on the site.
5599
- 5600 c. Location of on-site parking areas,
5601
- 5602 d. Rights-of-way, internal circulation, and ingress and egress.
5603
- 5604 e. A letter from the owner of the property indicating that the mobile food vendor has permission
5605 to operate from his or her property.
5606
- 5607 I. Signs associated with the operation shall be confined to the vehicle, trailer, or cart and one ground
5608 sign within 10 feet of the vending area. The ground sign shall be in compliance with the size
5609 requirements listed Article 7 and may not be within a right-of-way.
5610
- 5611 J. When multiple food trucks plan to be together for an event, a special event permit will be required if
5612 the event meets the thresholds listed in Section 5.9.10. of this Article.
5613
- 5614 K. Except as otherwise provided in this Code, it is unlawful to conduct mobile vending in any outdoor
5615 location without first obtaining a permit in accordance with the provisions of this Section.

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5616
5617 L. The vendor must be able to produce for inspection: a copy of a letter or other written communication
5618 from the property owner or representative that authorizes the mobile operation and, for mobile food
5619 service operators, a copy of the applicant's mobile food dispensing license issued by the Department
5620 of Business and Professional Regulations.

5621
5622 M. Mobile operations at City or County parks, sports stadiums, or similar venue during events shall be
5623 exempt from the requirements of this Section but must comply with all other applicable requirements
5624 in this code.

5625
5626 Mobile vendors, other than food trucks, shall be permitted only in conjunction with a special event or a
5627 farmer's market.

5628
5629 **Section. 5.10.14. Model homes.**

5630
5631 Model Homes shall be subject to the following requirements.

5632
5633 A. Model homes are intended to facilitate the sale of the model design, or products similar in design to
5634 the model and is not intended to allow the full scope of real estate activities and shall be restricted
5635 primarily to the sale and marketing of the model, or products similar to the model. Model homes shall
5636 be permitted as a temporary, conditional use, not to exceed 10 years, in residential zoning districts
5637 (R1, RE, RML) or within a Planned Development.

5638
5639 B. A model home must meet all of the zoning and building requirements for a residence in that zoning
5640 district as well as the following:

5641
5642 1. Parking. Three off-street vehicular parking spaces, including the garage, shall be provided on the
5643 model site or on an adjacent vacant property.

5644
5645 2. On-site parking. A parking space may be provided in the garage. A handicap parking space is
5646 required and shall count as one of the three required spaces.

5647
5648 3. Off-site parking. Adjacent vacant single-family lot(s) may be used for model home parking. A plan
5649 to provide parking on an adjacent parcel shall require ownership by the same or an affidavit of
5650 authorization from the property owner as well as a surety deposit payable to the City of Cape
5651 Coral to convert the property back to a residential or other permitted use when the structure is
5652 converted or sold. The deposit shall cover the costs associated with the conversion of the parking
5653 lot. The deposit shall be based on no less than 110% of the estimated cost by a professional
5654 engineer licensed in the State of Florida which shall be signed and sealed by the engineer, and
5655 found to be acceptable to the City. Funds and resulting interest shall be returned upon conversion
5656 of the site to a residential or other permitted use, the entire amount if the work is completed by
5657 the applicant, or the remaining funds if the City completes the work.

5658
5659 4. A hedge row of at least 36 inches in height shall be planted and maintained around the vehicular
5660 parking area.

5661

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- 5662 5. On-site or off-site parking shall be a paved or pavered surface with appropriate signs and
5663 markings, including handicap parking.
5664
- 5665 6. Treatment of stormwater runoff will be required for the first inch of runoff from the paved area
5666 associated with the parking lot area only.
5667
- 5668 7. Model home parking lots require a Limited Site Development Plan approval prior to construction.
5669
- 5670 B. Handicapped standards shall be met throughout the home, including access per the Florida Building
5671 Code and handrail and grab bar requirements.
5672
- 5673 C. Garage office. For any garage being used as an office for a model home the applicant must submit the
5674 following:
5675
- 5676 1. Plan of garage-office facility, including false walls, temporary electrical and plumbing.
5677
- 5678 2. Plan showing how garage will be returned to its original use.
5679
- 5680 3. \$10,000.00 refundable surety to ensure that the garage is converted back to the FEMA standards
5681 for single-family home usage.
5682
- 5683 D. Sign standards as defined in Article 7 of this code.
5684
- 5685 F. Upon completion of the construction and approval of the unit as a model home, a "temporary
5686 certificate of occupancy" will be issued to the owner of the model home to remain open for a period
5687 of five years. Extensions beyond this five-year temporary certificate of occupancy may be granted for
5688 the structure in the event an extension is approved for the model's permit by the Director of
5689 Community Development. The initial approval and maximum extension will allow the use of an
5690 individual model home to exist for a cumulative 10 years. The decision to extend the initial permit
5691 shall be pursuant to the following considerations:
5692
- 5693 1. The number of existing model homes within the immediate area of the extension request and
5694 impacts of those on the neighborhood.
5695
- 5696 2. The adequacy of the right(s)-of-way upon which the model home fronts.
5697
- 5698 3. The character or makeup of the area surrounding the model home.
5699
- 5700 4. The potential effect of the model home on adjacent and surrounding properties.
5701
- 5702 5. The existence of complaints relating to that model home.
5703
- 5704 6. A demonstration of good cause from the applicant why the extension request is needed.
5705
- 5706 7. Approval as a model home shall be recorded against the title.
5707

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5708 **Chapter 11. - CONDITIONAL USES**

5709

5710 **Section. 5.11.1. Purpose and applicability.**

5711

5712 A. Purpose and Intent

5713

5714 1. To provide standards and criteria for review and approval of specified conditional uses for a
5715 specific site.

5716

5717 2. To provide reasonable limitations or special conditions for conditional uses, in order to address,
5718 minimize, or ameliorate potential impacts of the use on surrounding property and for the
5719 protection of the public health, safety, and welfare.

5720

5721 B. General Requirements. Proposed conditional uses must meet the following requirements:

5722

5723 1. The conditional use standards identified in Article 4 for the specific zoning district use and
5724 conditional use in question.

5725

5726 2. The proposed conditional use will not result in development that is inconsistent with the intended
5727 character of the applicable zoning district.

5728

5729 3. A listed conditional use that does not meet the applicable conditional use standards may apply
5730 for approval as a Special Exception.

5731

5732 C. Review Criteria. A Conditional Use may be approved by the Director based on criteria identified in
5733 Article 4. These criteria are specific to each conditional use.

5734

5735 **Section. 5.11.2. Brewpubs.**

5736

5737 Brewpubs in the MXB district must meet the following conditions:

5738

5739 A. The area used for brewing, bottling, and kegging of all beverages produced by the establishment shall
5740 not exceed 40 percent of the total floor area of the restaurant, bar, or nightclub, or exceed a total
5741 floor area of 2,500 square feet devoted for brewing, bottling, and kegging, whichever is less.

5742

5743 B. An interior floor plan shall be submitted that clearly shows the area of the building that will be devoted
5744 to the brewing, bottling, and kegging component of the establishment.

5745

5746 C. No outdoor storage shall be allowed including the use of portable storage units, cargo containers, and
5747 tractor trailers, except as follows: spent or used grain may be placed outdoors for a period not to
5748 exceed 24 hours. The temporary stockpiling for spent or used grain shall be:

5749

5750 1. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the
5751 stockpiled spent grains and the distance of the stockpiled grains from property lines and the
5752 building containing the brewpub;

5753

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- 5754 2. Placed only along the side or rear of the building; and
5755
5756 3. Fully enclosed in containers that are screened behind an opaque wall or fence. The wall or fence
5757 shall have a minimum height of six feet.
5758

Section. 5.11.3. Attached residential of three-units or more.

5760
5761 Attached residential structures of three-units or more in the RML, CC, NC, MX, MXB, and SC zoning districts
5762 must meet the following conditions:
5763

- 5764 A. The number of linearly attached units must be between three and nine.
5765
5766 B. Landscaping shall be provided at a rate of two trees and six shrubs per 2,500 square feet of lot,
5767 rounding up to the next full number.
5768
5769 C. Attached residential developments shall incorporate three of the following design elements into each
5770 dwelling unit:
5771 1. Dwelling entry as the primary façade feature;
5772 2. Garage door recessed from the front façade, a preferred minimum of four feet;
5773 3. Horizontal eaves broken up with gables, projection, and articulation;
5774 4. Projecting eaves and gables, related to building massing;
5775 5. Building massing and roof form which articulate individual unit definition;
5776 6. Offset of four feet where two garage doors are adjacent to each other; or
5777 7. Projections and decorative elements, such as trellises, for visual interest.
5778
5779
5780
5781
5782
5783
5784

Section. 5.11.4. Multi-family dwellings.

5785
5786
5787 Multi-family dwellings in the RML, CC, NC, MXB, MX7 and SC districts must meet the following conditions
5788
5789

- 5790 A. Multi-family units in RML, CC, NC, MX, and SC require 700 square feet for a one bedroom and 200
5791 square feet for each additional bedroom.
5792
5793 B. Building Modulation and Articulation. All multi-family buildings shall provide a combination of
5794 volumetric and massing modulation and articulations to prevent the construction of ‘big boxes’, but
5795 rather buildings that harmonize their architectural quality in a stylistically pleasant manner. All
5796 buildings shall incorporate the following combined elements from the articulation criteria identified
5797 below.
5798 1. A minimum of three of the following volumetric elements shall be provided:
5799

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- 5800
- 5801 a. Pitched roof forms, minimum pitch of 4/12, whose sum covers greater than 30% of the
- 5802 overall roof area;
- 5803
- 5804 b. Architectural roof overhangs four feet or greater in depth or cornices 12 inches or greater in
- 5805 height;
- 5806
- 5807 c. Arcades. Arcades may be used as a means of sheltering pedestrian areas, and where
- 5808 provided, shall connect to entrances;
- 5809
- 5810 d. Accent elements such as tower elements, porticos, cupolas, or domes; or
- 5811
- 5812 e. A building with frontage 90 feet or less in length shall provide the following minimum
- 5813 massing articulations:
- 5814 i. A minimum of fifty percent (50%) of the cumulative frontage of each façade shall be
- 5815 setback a minimum of five feet from the primary façade and shall be distributed
- 5816 throughout the building frontage and shall not be provided as a single aggregated
- 5817 setback; and
- 5818 ii. A minimum of twenty percent (20%) of each frontage of each facade shall be setback
- 5819 a minimum of eight feet from the primary façade.
- 5820
- 5821 2. A minimum of four of the following architectural elements shall be provided:
- 5822
- 5823 a. Stoops on the ground floor and balconies on all floors above the ground floor;
- 5824
- 5825 b. Porches on the ground floor;
- 5826
- 5827 c. Pilasters, string courses, character lines, or other such means of subdividing the facade;
- 5828
- 5829 d. Structural or ornamental details clearly distinct from the primary wall surface, e.g., lintels,
- 5830 sills, door and window surrounds, decorative panels, etc.;
- 5831
- 5832 e. Decorative planters or planting areas a minimum of five feet in width, integrated into the
- 5833 building design; or
- 5834
- 5835 f. Masonry in at least two contrasting tones or textures, accomplished by a change in material
- 5836 or coursing such as brick, natural stone, brick or stone veneer, glass, masonry stucco,
- 5837 decorative concrete block, decorative concrete panels, tile glazing and framing systems, split
- 5838 face or fluted concrete masonry, factory glazed concrete masonry units, or architectural pre-
- 5839 cast concrete.

5840

5841 **Section. 5.11.5. Vehicle Repair, Minor.**

5842

5843 Vehicle Repair, Minor in the C and CC districts must meet the following conditions:

5844

- 5845 A. The number of cars being kept on site, not in a garage bay, shall be limited to three.

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- 5846
5847 B. All cars kept on site for repairs must be visually screened from the right-of-way and adjacent
5848 properties.
5849
5850 C. All repair work shall be performed within the garage.
5851
5852 D. No outside storage of materials or chemicals, all installation to occur within garage.
5853
5854 E. Hours of operation for repair work shall be limited from 7 a.m. to 8 p.m. when adjacent to any
5855 residential development.
5856

5857 **Section. 5.11.6. Outdoor Screened Storage.**

5858
5859 Outdoor Screened Storage in the CC district must meet the following conditions:
5860

- 5861 A. The screening must consist of opaque fence or wall. Chain-link fencing (with or without slats) is
5862 prohibited for screening.
5863
5864 B. The minimum height of the screening shall be 6 feet.
5865
5866 C. The height of the screening shall be tall enough to screen items being stored.
5867
5868 D. All perimeter landscaping shall be on the outside of the screening.
5869
5870 E. The screened area must be used in conjunction with principal use.
5871
5872 F. The area used for storage must be an improved impervious surface such as asphalt or concrete.
5873
5874 G. No vehicular access to the storage area shall be allowed from a local street.
5875

5876 **Section. 5.11.7. Laboratory – Medical, Research, Testing, and Development.**

5877
5878 Medical, Research, Testing or Development Laboratory Facilities in the NC district must meet the following
5879 conditions:
5880

- 5881 A. The laboratory shall not produce any exterior impacts such as sound, smoke, or odor.
5882
5883 B. No outside storage of materials shall be permitted.
5884

5885 **Section. 5.11.8. Sporting Facilities, Indoor and Outdoor.**

5886
5887 Sporting Facilities, Indoor and Outdoor in the A district must be in conjunction with an agricultural use
5888 such as riding stadiums etc.
5889

5890 **Section. 5.11.9. Boat Sales**

5891

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5892 Boat Sales in the SC district may only be permitted on sites with water frontage and direct access to
5893 Caloosahatchee River.

5894

5895 **Section 5.11.10. Home based businesses**

5896 Home occupations shall only be allowed as an accessory use to a single-family residential use and must
5897 meet the following conditions:

5898

5899 A. All home occupations operated in or from a residence shall comply with federal, state, and county
5900 rules and regulations, city license regulations specified herein and any other applicable ordinances of
5901 the City of Cape Coral.

5902

5903 B. No condition shall be permitted which tends to cause or increase the fire hazard to the residence,
5904 such as storage of paints or other flammable materials in excess of normal family use.

5905

5906 C. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display
5907 of materials be visible from the outside of the structure.

5908

5909 D. The appearance of the structure shall in no way be altered for the conduct of the home occupation
5910 within the structure nor shall the conduct be such that the structure may be recognized as serving a
5911 non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations,
5912 audible or visible interference in any radio or television receiver off the premises, or cause fluctuations
5913 in the electric voltage line off the premises.

5914

5915 E. No business operated under a fictitious name shall be issued a license to operate under this Section.

5916

5917 F. Frontage and access shall be from arterial street.

5918

5919 G. No driveway with ingress or egress to a local street shall be utilized.

5920

5921 H. Hours of operation shall be 7:00 A.M. until 7:00 p.m.

5922

5923 I. Employees and customers shall be allowed as long as adequate parking is provided on-site.

5924

5925 J. No parking shall be allowed on any surrounding parcels.

5926

5927 **Section. 5.11.11. Self-Storage Facility.**

5928

5929 Self-storage facilities in the I, C, and CC districts must meet the following conditions:

5930

5931 A. The facility must be designed so as to screen the interior of the development from all property lines.
5932 Screening features may consist of a free-standing wall, wall of a building, or a combination of the two.
5933 Free-standing walls used for screening shall be eight feet in height measured from grade.

5934

5935 1. The following materials, either singly or in any combination, are the only materials that may be
5936 used to form the wall:

5937

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- 5938 a. Concrete block coated with stucco;
5939
5940 b. Textured concrete block;
5941
5942 c. Stone;
5943
5944 d. Brick; or
5945
5946 e. Formed, decorative, or precast concrete.
5947
5948 2. If the wall of a building is used to meet the opaque feature requirement, such wall shall be
5949 surfaced with stucco, brick, stone, textured concrete masonry units, or other concrete surface.
5950 Untreated concrete block is not an acceptable finished material. Building walls used as a
5951 screening feature shall not have doors or windows.
5952
5953 B. A landscaped area with a minimum width of 10 feet shall be provided around the perimeter of the
5954 site. Perimeter landscaping shall consist of a minimum of three canopy trees per 100 feet, three
5955 accent trees per 100 feet, and 33 shrubs per 100 feet. Palms trees cannot be used to meet the
5956 minimum planting requirement of this section. All shrubs shall be installed at a minimum height of
5957 32 inches and be in a minimum seven-gallon container at the time of planting.
5958

Section. 5.11.12. Vehicle fueling stations.

5959 Vehicle fueling stations in the C, N, and SC (along primary streets) districts must meet the following
5960 conditions:
5961
5962

A. General:

- 5963
5964 1. All buildings, including pump islands, shall have a 25' setback from all property lines.
5965
5966 2. In no case shall a lot have less than 100 feet of street frontage.
5967
5968 3. Underground storage is required for all receptacles for combustible materials in excess of 55
5969 gallons. Such storage shall comply with all building and fire codes and Environmental Protection
5970 Agency standards.
5971
5972 4. The accumulation and storage of waste petroleum products is forbidden, unless in compliance
5973 with Environmental Protection Agency standards.
5974
5975 5. Primary services and sales permissible include fueling stations and electric charging stations, and
5976 include only the following accessory uses:
5977
5978 a. Car wash services;
5979
5980 b. Sale of convenience goods; and
5981
5982
5983

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- 5984 c. Accessory fast food services without a drive-through.
5985
5986 6. Uses permissible at a gas station do not include body work, straightening of body parts, painting,
5987 welding (other than minor repairs), or other work involving noise, glare, fumes, smoke, or other
5988 characteristics to an extent greater than normally found in vehicle fueling stations. A vehicle
5989 fueling station is not a body shop.
5990
5991 7. Outside materials storage is not permissible.
5992
5993 8. Lighting at a gas station shall be designed and installed so as to prevent glare or excessive light
5994 above 0.1 foot-candles on adjacent property. No source of illumination shall be allowed if such
5995 source of illumination, unshielded, would be visible from a residentially-zoned district to the
5996 extent that it interferes with the residential use of that area.
5997
5998 9. The minimum size parcel shall be 1.25 acres.
5999
6000 10. An eight-foot tall opaque wall constructed of concrete block coated with stucco, textured
6001 concrete block, stone, brick, or concrete (formed, decorative or precast) shall be constructed
6002 between any residential properties and a gas station. The wall shall be constructed within the gas
6003 station property, seven and one-half feet from the property line shared by the gas station and any
6004 adjacent residential property. The wall shall not be within a sight triangle.
6005
6006 a. The residential side of the wall shall be landscaped with shrubs (seven-gallon and 32 inches
6007 at planting) which shall be maintained at a mature height between six and eight feet and 80
6008 percent opacity.
6009
6010 11. Stormwater runoff from the fueling and storage tank loading areas shall be directed to an
6011 oil/gas/water separator prior to entering the surface water treatment area for the project.
6012
6013 B. Appearance:
6014
6015 1. All structures on the site shall have a unified architectural theme.
6016
6017 2. Gas station roofs shall be pitched a minimum of 4:12.
6018
6019 3. A minimum of 12-inch overhangs shall be provided
6020
6021 4. Roof and exterior wall surfaces, with the exception of glass areas, shall be nonreflective. Any glass
6022 coating shall not reflect outward.
6023
6024 5. The use of flat steel or metal panels for the exterior walls of the gas station shall be prohibited.
6025
6026 6. The rear and sides of buildings shall be finished with material that in texture and color resembles
6027 the front of the building.
6028

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- 6029 7. Glass windows and doors must make up at least 25 percent of the front elevation and 15 percent
6030 of the side elevations at eye level.
6031
- 6032 8. Any canopy shall be restricted to a clearance of 14 feet in height and shall be consistent with the
6033 primary structure design. The canopy columns and roof shall be architecturally finished to match
6034 the building.
6035
- 6036 9. The commercial advertising on the canopy shall be limited to 10 percent of the exterior area of
6037 the canopy and backlighting shall not be permitted on the canopy.
6038
- 6039 10. Perimeter walls, if utilized, shall be architecturally compatible with the principal structure.
6040
- 6041 C. Landscaping:
6042
- 6043 1. Front yard buffer. An enhanced front yard buffer shall be required for automobile service
6044 stations to limit the visual impact of the use. The following requirements shall be utilized:
6045
- 6046 2. Area to be landscaped. A strip of land at least 10 feet in depth, abutting the right-of-way and
6047 extending the length of the property except the entrance and exit drives, shall be landscaped.
6048
- 6049 3. Minimum tree requirements. Palm clusters on the ends of landscape buffers parallel to the gas
6050 pump canopy. The palm clusters shall consist of three palms with a minimum of 13 feet of gray
6051 wood, at planting. One cluster shall be provided for every 30 feet of road frontage;
6052
- 6053 4. Landscape accents. The use of landscape accents, such as planters and window boxes, shall be
6054 incorporated into the overall landscape design of the building and the site;
6055
- 6056 5. Other materials. The remainder of the required landscaped area shall be landscaped with grass,
6057 ground cover, or other approved landscaping treatment.
6058
- 6059 D. Vehicle Fueling Stations in the SC zoning district shall only be allowed with frontage along Del Prado
6060 Boulevard.
6061
6062
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- Section 5.1.2. Connection to utilities.
- Section. 5.1.3. Requirements for underground utilities.
- Section 5.1.4. Access required.
- Section 5.1.5. Protection of underground pipelines and utilities.
- Section 5.1.6. Protection of easements.
- Section. 5.1.7. Required visibility triangles.
- Section 5.1.8. Sidewalks and alleys.
- Section 5.1.9 Work in the public right-of-way and public utility easements
- Section 5.1.10. Maintenance of city rights-of-way.
- Section 5.1.11. Building numbers and addresses.
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55

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56

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- 58 Section 5.5.1. Purpose and intent.
- 59 Section 5.5.2. Florida-Friendly Landscaping Program principles.
- 60 Section 5.5.3. Applicability.
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- 64 Section 5.5.7. Planting near utility infrastructure.
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- 68 Section 5.5.11. Planting in public drainage or utility easements.
- 69 Section 5.5.12. Single-family homes and duplexes.
- 70 Section 5.5.13. Landscaping for all development other than single-family homes and duplexes.
- 71 Section 5.5.14. Irrigation.
- 72 Section 5.5.15. Tree credits.
- 73 Section 5.5.16. Landscape maintenance.
- 74 Section 5.5.17. Planting in medians, cul-de-sacs, or roundabouts.
- 75 ~~Section 5.5.18. Cul-de-sac or roundabout landscaping.~~
- 76 Section 5.5.189. Lateral right-of-way planting.
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- 80
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- 85
- 86 Section. 5.7.1. Screening of rooftop equipment.
- 87 Section. 5.7.2. Screening of storage areas.
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- 104
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- 108 Section. 5.9.2. Firework, pumpkin, and Christmas tree sales.
- 109 Section. 5.9.3. Outdoor display of merchandise.
- 110 Section. 5.9.4. Garage sales.
- 111 Section. 5.9.5. Temporary construction or field office.
- 112 Section 5.9.6. Construction staging areas and post disaster debris staging
- 113 Section. 5.9.7. Temporary sales office.
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- 124 Section. 5.10.2. Craft breweries, distilleries, and wineries.
- 125 Section. 5.10.3. Duplex.
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- 127 Section. 5.10.5. RV resorts
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- 130 Section 5.10.8. Accessory Parking Lots.
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- 132 Section 5.10.10. Vehicle Sales, Light
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- 136 Section. 5.10.14. Model homes.
- 137 [Section 5.10.15. Building and Construction w/outdoor storage and display](#)
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- Section. 5.11.1. Purpose and applicability.
- Section. 5.11.2. Brewpubs.
- Section. 5.11.3. Attached residential of three-units or more.
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- Section. 5.11.11. Self-Storage Facility.
- Section. 5.11.12. Vehicle fueling stations.
- [Section 5.11.13. Religious Institutions](#)

CHAPTER 1. GENERAL REQUIREMENTS FOR ALL DEVELOPMENT

Section 5.1.1. Purpose and Intent

The purpose of this article is to provide standards for all development in the City of Cape Coral.

Section 5.1.2. Connection to utilities.

All development is required to connect to public or private utilities, as required as by the City of Cape Coral Code of Ordinances, Chapter 19 Water and Sewer Utilities.

Section. 5.1.3. Requirements for underground utilities.

- A. In new residential subdivisions, all utility lines (including electrical power distribution, telephone, communication, street lighting, and cable television signal service) shall be installed underground. This Section shall apply to all cable, conduits, or wires forming part of an electrical distribution system, including service lines to individual properties.

However, this Section shall not apply to wires, conductors, or associated apparatus and supporting structures whose exclusive function is in transmission of electrical energy between generating stations, substations, transmission lines of other utility systems, and main distribution feeder electric lines delivering power to local distribution systems. Appurtenances such as transformer boxes, pedestal-mounted terminal boxes, and meter cabinets may be placed above ground and in such a manner as to minimize noise effects upon the surrounding residential properties.

- B. The developer shall provide for the necessary costs and other arrangements for such underground utility installation.

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184 C. For all new buildings in the Commercial Corridor, South Cape, and PUD zoning districts all onsite
185 utilities including telephone, electricity, cable television, and other wires of all kinds shall be placed
186 underground. However, appurtenances to these systems that require aboveground installation,
187 including utility panel boxes, are exempt from this requirement if the appurtenances are not placed
188 in front yards. When such appurtenances are placed in utility easements abutting a platted alley,
189 they shall be placed at least ten and one-half feet from the centerline of the platted alley. These
190 underground requirements also apply to those improvements to non-conforming structures that
191 exceed the 50% thresholds as described in Article 8, Nonconformities. All utility infrastructure,
192 including electric utility poles and power lines, shall be concealed from public view wherever
193 possible. All new electric distribution lines shall be located in utility easements abutting platted
194 alleys and the utility poles shall be positioned so that a minimum clearance of ten and one-half feet
195 from the centerline of any platted alley is maintained. For properties that do not have a rear platted
196 alley, the electric distribution lines and utility poles shall be placed in the rear utility easement
197 wherever possible.

198
199 D. In the South Cape zoning district where overhead or underground utility lines have been placed in
200 the six-foot PUE, a property owner shall choose one of the following options:
201
202 1. Relocate the utility lines to the alley or other acceptable location, at the property owner's sole
203 expense, and subject to approval by the affected utility provider(s) and the City of Cape Coral;
204 or
205
206 2. Place a concrete sidewalk or architectural elements on the front six-foot property setback. If
207 overhead electric lines are in place, no awnings, canopies, balconies, colonnades, arcades, or
208 front porches may be constructed forward of this line even if otherwise required by this code.
209 If underground lines of any type are in place, the property owner is solely responsible for
210 repairing any damage to lawful encroachments into the six-foot easement resulting from
211 maintenance or improvements to utility lines.

212
213 **Section 5.1.4. Access required.**
214

215 Except as otherwise provided, all building sites shall have access on a street or a road shown on an
216 approved and recorded final plat. One or more buildings may have no direct access to a street provided
217 that the approving authority finds that such building site(s) have adequate indirect access to a street such
218 as a recorded easement or right-of-way through or over another parcel. The city may prohibit direct access
219 from a parcel or building site to a street when the approving authority finds that prohibition of direct
220 access would promote the public health, safety, and welfare based on factors including traffic or
221 transportation safety and when the parcel or building site could be afforded indirect access to a street or
222 other road via another parcel or building site.

223
224 **Section 5.1.5. Protection of underground pipelines and utilities.**
225

226 A. Intent. It is the intent of the City Council to protect underground pipelines and utilities from
227 destruction or damage to prevent:

228
229 1. Death or injury to persons;

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- 230
231 2. Property damage to private and public property; and
232
233 3. Loss of essential pipeline or utility services to the general public.
234

235 ~~B. Notice requirements for excavation. No excavator shall make or begin any excavation on public~~
236 ~~property or dedicated easements without first obtaining information concerning the possible~~
237 ~~location of utility lines in the area of the proposed excavation. The excavator may obtain such~~
238 ~~information by contacting each entity who may have utility facilities in the area of the proposed~~
239 ~~excavation. Such contact may be made by telephone, written correspondence, e-mail, messenger,~~
240 ~~or in person.~~

241
242 ~~C. Notice requirements when marking of lines is necessary. If marking of utility lines is necessary, the~~
243 ~~excavator shall notify that entity so that the entity receives notification at least 48 hours (excluding~~
244 ~~Saturdays, Sundays and legal holidays) prior to the commencement of the excavation. When~~
245 ~~marking is necessary the utility line concerned shall be marked by the entity. Marking of a utility~~
246 ~~line is necessary when:~~

247
248 1. ~~A proposed excavation, except blasting, is planned with five feet of a utility line located on~~
249 ~~public property or a dedicated easement.~~

250
251 2. ~~A proposed excavation, by blasting, is planned in such proximity to a utility line that the utility~~
252 ~~line will be destroyed, damaged, or disturbed.~~

253
254 B. All excavation on public property, rights-of-way, or dedicated easements shall comply with the
255 requirements of F.S. 556. UNDERGROUND FACILITY DAMAGE PREVENTION AND SAFETY.

256
257 ~~C~~D. Penalties for violation. Any person violating this section shall be punished as provided in the Code
258 of Ordinances of the City of Cape Coral.

259
260 **Section 5.1.6. Protection of easements.**

261
262 A. In the R-1, RML, RE, and A zoning districts, the six-foot easement around the perimeter of sites shall
263 be preserved and nothing shall be placed or constructed on such easements other than a paved
264 driveway, walkway, sidewalk, fences, or well. In addition, for non-residential uses lawfully located
265 in residential zoning districts, paved off-street parking areas may be placed or constructed on the
266 six-foot easement around the perimeter of the site.

267
268 B. In the RMM zoning district, where lot depth is greater than 131 feet, the six-foot easement around
269 the perimeter of the sites shall be preserved and nothing shall be placed or constructed on such
270 easement other than a paved driveway, walkway, sidewalk, paved off-street parking areas, or a well
271 when site conditions make it impractical to locate elsewhere. On sites with a depth of less than 131
272 feet, paving of the front easement for parking purposes shall be permitted.

273
274 C. Lawn sprinkler systems and landscaping may be placed in the 6' PUE easements as permitted by the
275 Code of Ordinances or the Land Development Code.

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- 276
277 D. In the C, CC, I, INST, MX, MXB, MX7, NC, P, and SC zoning districts, paved off-street parking areas,
278 paved driveways, sidewalks, wells, walkways at ground level, lawn sprinkler systems, or landscaping
279 may be placed in an easement provided that all other requirements of the Code of Ordinances or
280 the Land Development Code are met.
281
282 E. Nothing in this section shall prohibit the construction of seawalls, davits, docks, or other structures
283 as permitted by the Cape Coral Code of Ordinances.
284
285 F. If a utility removes, damages, or disturbs the construction or other material within an easement as
286 allowed by this section, the property owner shall be responsible for the cost of its removal,
287 relocation, repair, or replacement. If any plant material in an easement required by Chapter 5 of
288 this Article of the Land Development Code is removed or damaged, the property owner shall replace
289 all such material within 30 days of the completion of the utility work. These requirements also
290 include repair or replacement of sod within the right-of-way. In addition, prior to issuing a permit
291 to locate, place, construct, or install any structure, construction, driveway, or other material in an
292 easement, the city may require the property owner to agree to indemnify and to hold the city
293 harmless from any or all costs or expenses incurred as a result of such location, placement,
294 construction, or installation in the easement.
295
296 G. The city may deny applications to place wells, fences, walls, or other materials in an easement if
297 such would conflict with existing or proposed utilities or drainage functions.
298

299 **Section. 5.1.7. Required visibility triangles.**

300
301 As an aid to allow for safe operation of vehicles, pedestrians, and cyclists in the proximity of intersecting
302 streets, driveways, alleys, and bicycle paths, there shall be limitations on the height of fences, walls,
303 gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures as visually depicted in
304 the Cape Coral Engineering and Design Standards and as follows:
305

- 306 A. All landscaping and signs within the visibility triangle shall provide unobstructed visibility between
307 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard.
308
309 B. The property owner shall be responsible for maintaining all landscaping within the visibility triangle
310 to provide the unobstructed visibility.
311
312 ~~C. Landscaping, except required turf and ground cover, shall not be closer than five feet from the edge~~
313 ~~of any roadway and three feet from the edge of any alley or pavement.~~
314
315 ~~D. It shall be unlawful for any person to plant or cause to be planted any tree or shrub or to place any~~
316 ~~structure in the public right-of-way without the necessary permit.~~
317
318 ~~E. The elevation grades of the public right-of-way adjacent to private property shall not be altered.~~
319
320 F.C. The Community Development Director shall make the final determination regarding visibility
321 triangles.

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Section 5.1.8. Sidewalks and alleys.

- A. Non-Residential Zoning Districts. As part of construction of each building erected in non-residential zoning districts (C, CC, I, INST, MX, MXB, MX7, NC, P, and SC) ~~sidewalks~~right-of-improvements shall be installed prior to the issuance of a certificate of occupancy pursuant to the standards and specifications set forth in the City of Cape Coral Engineering Design Standards.
- B. All ~~sidewalks, curbs, and gutters~~ shall be constructed ~~to the widths shown in~~ accordance with the City of Cape Coral Engineering Design Standards, except where a sidewalk has been installed and the established width is less than five feet, the minimum width of the sidewalk to be installed shall be the width of the existing sidewalk.
- C. ~~All improvements in the public right of way such as curbing, street paving, and gutters shall be constructed according to the City of Cape Coral Engineering and Design Standards.~~
- ~~D.~~ Lot owners who develop property, erect buildings, or change the use on only a portion of a lot must provide the curbs, sidewalks, ~~and gutters,~~ and lane widening for the entirety of the property, as required by this subsection, which shall be at the expense of the lot owner.
- ~~ED.~~ As part of ~~the property development and~~ construction of each building erected in the C, CC, I, INST, MX, MXB, MX7, NC, P, and SC zoning districts adjacent to a platted alley the alley shall be improved prior to the issuance of a certificate of occupancy. Such alley portion shall be constructed in accordance with the Engineering Design Standards along the length of the property line of the site lying adjacent to the platted alley. In addition to new construction in the C, CC, I, INST, MX, MXB, MX7, NC, P, and SC zoning districts, alterations to existing sites lying adjacent to a platted alley shall be required to make the alley improvements required by this section if the value of such alterations exceeds 50% of the replacement value of the site improvements. These improvements include parking areas, internal curbing, and retention areas but exclude internal, previously existing modifications to the building.
- ~~FE.~~ Payment in Lieu of Construction. At the discretion of the City, the City may accept payment in lieu of construction for all or part of the off-site improvements required by the City. For projects where payment in lieu of construction will be employed, the developer shall submit to the City 110% of the estimated cost of the improvements as prepared by a professional engineer licensed in the state of Florida, which shall be reviewed and approved by the City. The developer shall provide the City with payment for all construction costs prior to the issuance of a development permit for the site.
- F. Right-of-way improvements shall be constructed only if the city has developed construction designs for that roadway segment. In areas without city approved construction designs for a roadway segment, construction of improvements shall be done through a city established special assessment district.
- G. Residential. As part of the construction of each building erected in the R1, RML, RMM, RE, and A zoning districts, sidewalks shall be required adjacent to streets designated for sidewalks by the

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367 Comprehensive Plan Traffic Circulation Element and Bicycle Pedestrian Plan. This does not apply to
368 existing structures that are being remodeled or repaired.

369
370 **Section 5.1.9. Work in the Public Right-of-Way and Public Utility Easements**

371
372 A. General. Except as provided below, no construction, change, modification, or alteration of any
373 type or nature whatsoever, including, ~~but not limited to,~~ the addition or removal of fill,
374 vegetation, or other materials, ~~and/or~~ the placement, installation, or erection of any object or
375 vegetation, shall be allowed within a city-owned right-of-way or swale, except as provided in
376 Chapter 1 of this Article.

377
378 B. No permit required. The following work ~~and/or~~ activities shall be allowed in the public right-of-
379 way or roadway easement areas without the necessity of a city permit:

380
381 1. Trimming, cutting, ~~and/or~~ maintenance of trees, shrubs, and other vegetation existing as of
382 the effective date of this ordinance in the public rights-of-way or swales;

383
384 2. Markers, commonly known as buttons, turtles, or half-moons, may be placed 18 inches from
385 the edge of the pavement in residential zoning districts provided that such markers shall not
386 exceed a height of four inches. However, no markers shall be placed within any public right-
387 of-way which is adjacent to a roadway with four or more lanes;

388
389 3. Mailboxes may be placed in the public rights-of-way or swales so long as they are in
390 accordance with the City of Cape Coral Engineering Design Standards. The mailbox may be
391 immediately surrounded by a small bed consisting of landscape edging materials or concrete
392 curbing, bedding plants ~~and/or~~ groundcover, and mulch or decorative rock provided that
393 such decorative rock shall not exceed four inches when measured in any direction, pursuant
394 to Chapter 5 of this Article. In no event shall the diameter of the plant bed exceed two feet
395 when measured from the outer-most edges of any landscape edging material or concrete
396 curbing utilized. ~~;~~ and

397
398 4. A Registration Certificate is required to install landscaping material in the lateral right-of-way
399 areas between the roadway pavement and the private property line in accordance with
400 Section 5.5.19 of this Article.

401
402 C. Permit required. The following work ~~and/or~~ activities shall be allowed in the public right-of-way
403 or roadway easement areas provided that the property owner first obtains a permit from the
404 city:

405
406 1. Culvert installation and appurtenant work;

407
408 2. Sod installation and appurtenant work;

409
410 3. Driveway installation and appurtenant work;

411
412 4. Curb, gutter, sidewalk, sod, and paving ~~without alley improvements;~~

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- 5. ~~Curb, gutter, sidewalk, sod, and paving, with alley~~Alley improvements;
 - 6. Installation of sprinkler systems. However, if the sprinkler system is disturbed, damaged, or destroyed by the City performing work in the public right-of-way, the owner shall be solely responsible for any cost resulting from such disturbance, damage to, or destruction of the sprinkler system in the right-of-way; and
 - 7. ~~Median landscaping~~Planting in medians, cul-de-sacs, and roundabouts as permitted in Chapter 5 Section 5.5.17 of this Article.
- D. Under no circumstances shall any of the activities permitted above result in any change, modification, or alteration of any type whatsoever, to the established grade, slope, or contour of the public swale or right-of-way not specifically addressed by the City of Cape Coral Engineering Design Standards.
- E. None of the prohibitions contained in this ordinance shall apply to any construction, change, modification, or alteration within a public right-of-way or swale which is performed by or required by a governmental entity or public utility.
- F. Public Utilities. No public utility including electric, phone, cable tv, internet, cellular, or gas company will be allowed to install or maintain facilities, begin construction, change, modify, or alter in any way whatsoever the public right-of-way, swale, or adjacent public utility easements, including the addition or removal of fill, vegetation, or other materials, without a permit as required by the City of Cape Coral Code of Ordinances.

Section 5.1.10. Maintenance of city rights-of-way.

All property owners shall be responsible to either maintain or construct the city-owned right-of-way lying between their property boundaries and the city pavement, to include the following standards.

- A. Prior to preparation of a building lot for construction, the building permit holder shall obtain the correct swale flow line elevations from the ~~Engineering Department~~City and proceed immediately to create the required swale needed to allow continuous uninterrupted flow of stormwater throughout the construction process.
- B. During construction or reconstruction ~~straw bales or other~~ approved erosion control devices shall be placed in the swale adjacent to both property lines to impede all foreign matter from entering the stormwater system. The erosion control devices shall remain in place until placement of final sod in the right-of-way.
- C. No excavated material or construction material shall restrict stormwater flow within the swale area.
- D. Upon issuance of the certificate of occupancy, the owner shall maintain the swale indefinitely to the same standard that is applied to privately-owned property.

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459 E. All pavement ~~damages~~ must be repaired to meet or exceed the City of Cape Coral eEngineering
460 eDesign sStandards.

461

462 **Section 5.1.11. Building numbers and addresses.**

463

464 All buildings in the City of Cape Coral shall display a proper building number at least four feet from the
465 ground level. All building numbers shall be visible from the public right-of-way which the front of the
466 building faces. Building numbers of sufficient size which are affixed to both sides of mail boxes on such
467 right-of-way or building numbers which are affixed to lawful signs not attached to the building may be
468 substituted for number affixed to buildings.

469

470 **Section 5.1.12. General regulations for lots, yards, and setbacks.**

471

472 A. Double frontage other than corner lots. Double frontage other than corner lots shall meet front
473 setback regulations on all adjacent streets.

474

475 B. Corner lots. In the SC and MXB zoning district(s), corner lots shall be deemed to have front lot lines
476 abutting all street right-of-way lines. For corner lots in all other zoning districts, the following shall
477 apply:

478

479 1. The front of any building site shall be determined by the lesser dimension of a single lot (not
480 building site). This frontage shall have the established setback for the particular zoning district,
481 but in no instance be less than 25 feet.

482

483 2. The remaining street frontage shall have a setback of no less than ten feet in all zoning districts.
484 The remaining street frontage shall be maintained as a front yard and the regulations for fences,
485 shrubbery, and walls of this ordinance shall apply.

486

487 3. On sites bounded by three streets, one lot line shall be designated by the Director as the rear
488 and maintained as the rear setback of that zoning district. For purposes of this section, all but
489 the rear yard shall be maintained as a front yard and the regulations for fences, shrubbery, and
490 walls of this ordinance shall apply.

491

492 4. The front of a single-family residential building shall not be offset from the front property line
493 by an angle greater than 45 degrees.

494

495 C. No parcel shall be reduced below the minimum dimensional requirements in the zoning district.
496 This provision shall not apply when a portion of a parcel is acquired for a public purpose.

497

498 **Section 5.1.13. Single-family residential standards**

499

500 In addition to all other provisions of this Code, single-family residential uses shall be subject to the
501 following requirements.

502

503 A. In the A₁R₁ and RE zoning districts only one single family residence shall be permitted per parcel.

504

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- 505 B. Ornamental walls. Ornamental walls attached to the principal building shall have the following
506 requirements
507
508 1. Ornamental walls shall not be higher than four feet at any point where they extend beyond the
509 roof overhang and into the side setback.
510
511 2. Ornamental walls may extend into the side setback but shall not extend into the six-foot
512 perimeters easements.
513
514 3. An ornamental wall not to exceed 30 inches in height may be installed in the front yard.
515
516 4. Ornamental walls may be in the form of a planter.
517
518 4. A planter may be incorporated into the construction of a wingwall.
519

520 C. Water discharge. All gutter downspouts or similar water discharge devices shall direct the discharge
521 to the front or rear property lines. Refer to the City of Cape Coral Engineering Design Standards,
522 Section L, Drainage Design Standards for lot grading and drainage information.
523

524 C.D. For single-family or duplex construction activities on any site in a Special Flood Hazard Area, the
525 maximum amount of fill on-site shall be limited to 12 inches, unless otherwise approved by the
526 Building Official.
527

528 **Section 5.1.14. Multi-family residential.**
529

530 In addition to other provisions of this ordinance, single-family attached structures, duplexes, and multi-
531 family residential uses shall be subject to the following requirements.
532

- 533 A. Distance between buildings.
534
535 1. Clustered buildings. Buildings may be constructed on proper building sites in cluster style
536 providing a minimum of 20 feet is maintained between the buildings up to a height of 38 feet.
537
538 a. One foot shall be added to the 20-foot distance for every foot of height increase over 38
539 feet.
540
541 b. Carports will not be considered in determining the 20-foot distance between buildings.
542

- 543 B. Water discharge.
544
545 1. All gutter downspouts or roof drains from multi-family buildings shall be directed to the water
546 management system. ~~Water discharge. All gutter downspouts or similar water discharge devices~~
547 ~~shall direct the discharge to the front or rear property lines.~~
548
549 2. ~~All gutter downspouts or similar water discharge devices from duplexes shall direct the~~
550 ~~discharge to the front or rear property lines. Refer to the City of Cape Coral Engineering Design~~

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551 Standards, Section L, Drainage Design Standards for lot grading and drainage information. This
552 provision shall be applicable only to duplexes in multi-family residential uses.

553
554 C. Maximum Fill. For duplex construction activities on any site in a Special Flood Hazard Area, the
555 maximum amount of fill on-site shall be limited to 12 inches, unless otherwise approved by the
556 Building Official.

557
558 **Section 5.1.15. Dumpster Enclosures.**

559
560 Except where noted below, all sites with uses other than single-family residences and duplexes, shall
561 provide commercial trash receptacles in accordance with the regulations in this section.

562
563 A. Screening.

- 564
565 1. Except for the SC and MXB Districts, when commercial trash receptacles are in a rear yard that
566 abuts an alley, all commercial trash receptacles shall be enclosed from view on at least three sides
567 by an opaque visual barrier.
568
569 2. When a commercial trash receptacle is visible from an adjacent property or an adjacent street, at
570 ground level, then the commercial trash receptacle shall be enclosed on the fourth side by an
571 opaque gate that shall be the same height as the opaque visual barrier on the other three sides.
572
573 3. The principal structure may be used as the opaque visual barrier on one or more sides provided
574 the commercial trash receptacle is completely concealed from view.

575
576 B. Materials.

- 577
578 1. The following materials, either singly or in any combination, are the only materials that may be
579 used for the opaque visual barrier and gate:
580
581 a. Wood fencing;
582
583 b. Plastic or vinyl fencing;
584
585 c. Concrete block and stucco wall;
586
587 d. Brick wall; or
588
589 e. Formed, decorative, or precast concrete.
590
591 2. Chain link fencing, whether singly, or combination with other materials, including plastic slats,
592 shall be prohibited.
593
594 3. Gates shall be constructed of a durable, opaque material, consistent or complimentary in color
595 with the enclosure and of a height to screen the container.
596

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- 597 C. Location.
598
599 1. Commercial trash receptacles shall not be located on unimproved sites.
600
601 2. Commercial trash receptacles and accompanying visual barriers, are subject to the following
602 minimum setbacks:
603
604 a. Six feet from the front property lines in the SC and MXB Districts.
605
606 b. Three feet from alley rights-of-way.
607
608 3. When located in a public utility or drainage easement, the property owner shall be solely
609 responsible for removal of the commercial trash receptacle as well as for any cost resulting from
610 disturbance, damage, destruction, or restoration of the receptacle resulting from work associated
611 with utilities in such easement. Prior to issuing a permit, the City may require the property owner
612 to agree, in writing, to indemnify and to hold the city harmless from any costs or expenses
613 resulting from placing a commercial trash receptacle in an easement.
614
615 4. A commercial trash receptacle may be placed on an adjoining property provided that the premises
616 are adjacent to or directly behind the development and written consent of the adjoining property
617 owner is submitted to and approved by the Director. The adjoining property owner may revoke
618 this consent upon written notice to the development and the Director. The development shall
619 have 30 days from revocation to relocate the commercial trash receptacle and to comply with all
620 requirements of this section.
621
622 5. Developments within 25 feet of a City-owned parking lot may, upon approval by the Director,
623 locate enclosures on the City-owned parking lot. Approval may be revoked at any time, upon
624 reasonable notification, by the City.
625
626 D. Dimensions. The dumpster enclosure shall have a minimum interior dimension of ten feet by ten feet
627 and a height at least six inches higher than the enclosed commercial trash receptacle. Neither the
628 dumpster enclosure or the gate providing access to the commercial trash receptacle shall be
629 considered a fence or a wall pursuant to the City Code of Ordinances or Land Development Code.
630
631 E. All dumpster enclosures shall be located so that a sanitation vehicle has physical access to the
632 commercial trash receptacle that is adequate for safely servicing the facility.
633
634 F. Each commercial trash receptacle shall be located on a concrete pad.
635
636 G. All solid waste or other refuse, including recycling materials stored in commercial trash receptacles,
637 shall be concealed by a lid attached that shall remain in the closed position unless materials are being
638 placed into the receptacle or the receptacle is being serviced. No material shall be permitted to
639 overflow the receptacle.
640
641 H. In the event a commercial trash receptacle is in a dumpster enclosure that includes a gate, regardless
642 of whether such a gate would have been required pursuant to this section, the gate shall be of a type

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643 that opens sufficiently to allow unimpeded access to the trash receptacle by the sanitation vehicle
644 and shall have drop pins, hooks, or other devices installed to hold the gate open while the receptacle
645 is being serviced. All gates shall remain closed unless the receptacle is being serviced.
646

647 I. Deviations. In the event an owner is unable to comply with the requirements of this section, the owner
648 may request an administrative deviation from the Director. In determining whether to approve an
649 administrative deviation, the Director shall consider factors such as dimensions of the property, site
650 constraints such as existing development, or other location factors that may make compliance with
651 this section impossible or impractical. The determination to approve an administrative deviation shall
652 be at the sole discretion of the Director.
653

654 J. Maintenance. Commercial trash containers shall be maintained in a manner which is not a nuisance
655 to surrounding uses.
656

657 1. The receptacle shall be stored in the enclosure and the gate(s) to the enclosure shall remain closed
658 at all times unless it is being accessed at that time.
659

660 2. Refuse may not be left outside of the enclosure or on the ground within the enclosure.
661

662 **Section 5.1.16. Outdoor seating.**
663

664 Outdoor seating may be permitted as an accessory use to a restaurant, hotel, bar, or fraternal organization
665 provided the following conditions are met:
666

667 A. All outdoor seating:
668

669 1. Music may be permitted to be performed or amplified in outdoor seating areas, in accordance
670 with Section 12-22 of the City’s Code of Ordinances, or in accordance with a permit per Chapter
671 9 of this Article.
672

673 2. Parking shall be provided at a rate of 1 parking space per 200 square feet of outdoor seating area.
674

675 B. Outdoor seating in public areas.
676

677 1. The number of outdoor seats and tables shall be limited to that number that can be reasonably
678 accommodated according to the available widths of the associated storefront and sidewalk or
679 patio area. Adjacent sidewalk bulb-out areas, even if not directly in front of the associated
680 storefront, may be considered on an individual basis, when the affected storefront owner does
681 not object.
682

683 2. Clear pedestrian access shall be maintained at all times, and no seating or tables shall interfere
684 with ingress and egress to buildings or create an unsafe situation with street traffic.
685

686 3. The sidewalk café owner or operator shall remove any seating or tables when the business is
687 closed, or when an authorized agent of the city makes such a request.
688

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- 689 4. Public sidewalks adjacent to any approved sidewalk café shall be properly maintained for safety
690 and cleanliness by the sidewalk café owner or operator on a daily basis. Litter, dirt, grime, grease,
691 and food shall not be permitted to accumulate at any time.
692
- 693 5. An indemnity agreement, provided by the director of Community Development shall be signed
694 and provided by the sidewalk café owner or operator, along with proof of public liability insurance
695 as approved by the city attorney.
696

697 **CHAPTER 2 ACCESSORY STRUCTURES**

698
699 **Section. 5.2.1. General Requirements.**

- 700
- 701 A. This chapter shall pertain to residential properties unless otherwise specifically stated herein.
702 Accessory structures on non-residential properties shall be reviewed per the standards of that zoning
703 district. Agriculturally zoned properties shall not be considered residential for purposes of this section.
704
- 705 B. Accessory buildings shall be constructed to conform to the minimum building requirements and shall
706 meet all other regulations applicable to the district.
707
- 708 C. Residential accessory buildings shall be in the rear yard, other than those listed in Section 5.2.1, and
709 shall comply with all of the requirements found in this Section.
710
- 711 D. Accessory structures, such as pergolas, arbors, trellises, and flag poles may be in the rear, side, or
712 front yard of the primary structure. Fences and sheds may be permitted in the rear or side yard of the
713 primary structure.
714
- 715 E. No accessory structure, including fences, shall be constructed on any residential parcel not containing
716 a primary structure.
717
- 718 F. Accessory buildings shall be elevated above the base flood elevation (BFE) or provide hydrostatic
719 vents consistent with FEMA regulations.
720
- 721 G. All nonconforming accessory structures shall be subject to the requirements of Article 8
722 Nonconformities.
723
- 724 H. Any accessory structure not listed in this chapter may be reviewed and considered for approval
725 through a similar use determination process.
726
- 727 I. In non-residential districts, all accessory structures shall be reviewed and held to the same standard
728 as a non-residential structure.
729
- 730 J. Setbacks shall be measured from the property line and must be considered in addition to all other
731 locational requirements.
732

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733 **Table 5.2.1.A. Setback Requirements for Accessory Structures.**

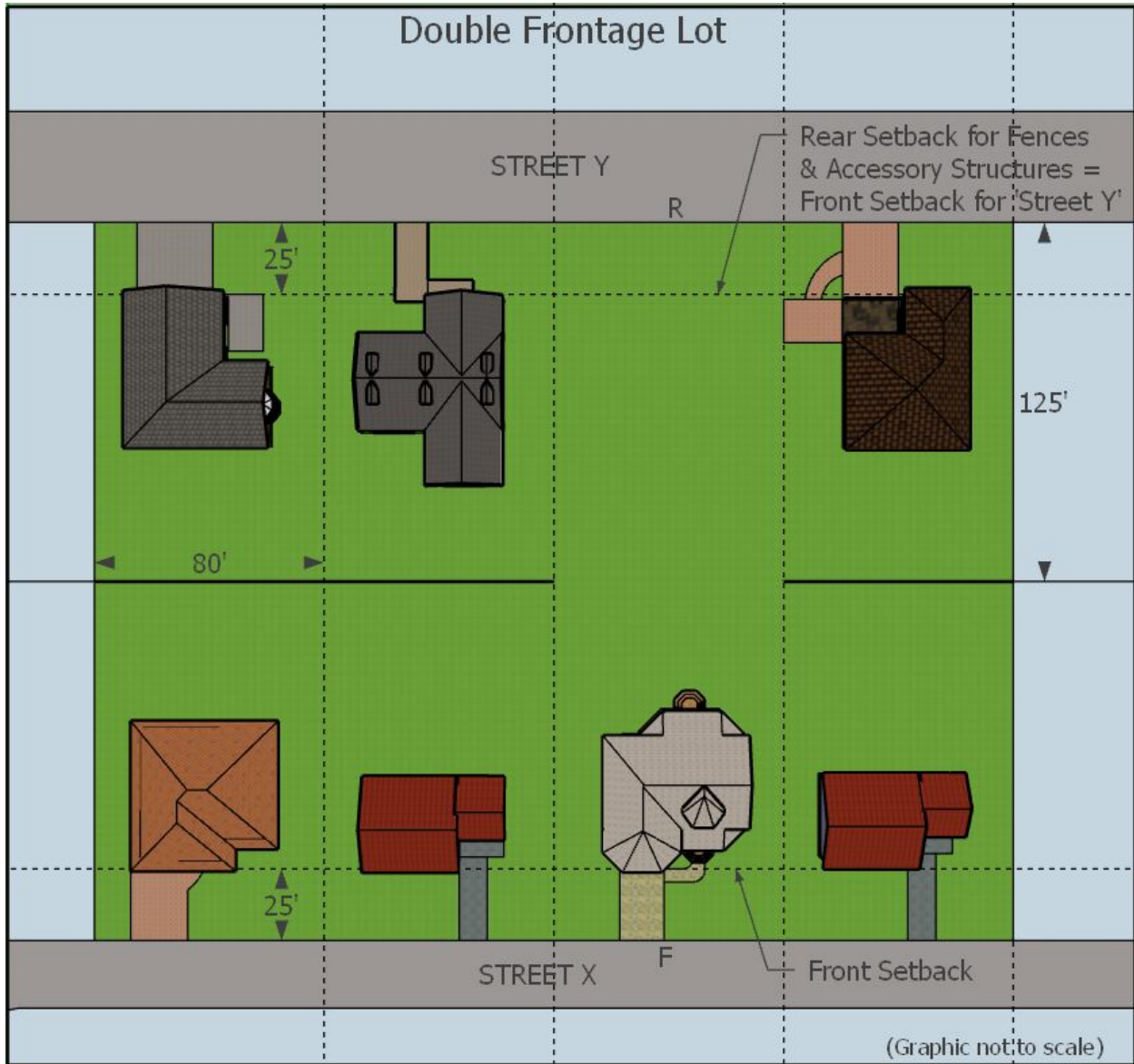
Residential Accessory	Setback – measured from property line			Maximum Building Height	Separation Distance
	Front Yard	Side Yard	Rear Yard		
Arbors, trellises, pergolas	Sec 5.17	7.5 ft.	10 ft.	14 ft.	N/A
Courts and Playing Surfaces	X	7.5 ft.	10 ft.	N/A	N/A
Decks, unenclosed	X	7.5 ft.	10 ft.	30 inches	N/A
Detached Garage	X	SAP	10 ft.	14 ft.	5 ft.
Fences and Walls	Per Sec 5.1.12				N/A
Flagpoles	15 ft.	7.5 ft.	10 ft.	35 ft.	N/A
Fountains and Sculptures	15 ft.	10 ft.	10 ft.	Per sec 5.1.15	N/A
Gazebo	X	7.5 ft.	10 ft.	10 ft.	5 ft.
Greenhouse	X	SAP	SAP	15 ft.	5 ft.
Detached guesthouse/ADU's	X	SAP	SAP	14 ft.	5 ft.
Swing sets and similar play structures	X	7.5 ft.	6 ft.	8 ft.	N/A
Solar Photovoltaic (PV) Arrays, at grade	X	7.5 ft.	10 ft.	9 ft.	N/A
Sheds	X	7.5 ft.	10 ft.	14 ft.	5 ft.
Sunshelter	X	7.5 ft.	6 ft. or over a dock	14 ft.	5 ft.
Swimming pools and reflecting pools	X, RE≥3 acres SAP	7.5 ft., RE≥3 acres SAP	10 ft., RE≥3 acres SAP	30 inches	N/A
Swimming Pool Screen enclosure	X, RE≥3 acres SAP	7.5 ft., RE≥3 acres SAP	10 ft., RE≥3 acres SAP	SAP	N/A

- X Not permitted
- SAP Same as Principle Structure
- N/A Not Applicable

734
735
736
737

Diagram 5.2.1.B Double Frontage Lot Fence and Accessory Structure Requirements.

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749
750

Section 5.2.2. Accessory Dwelling Units (ADUs)

A. All ADUs shall comply with the following:

1. An ADU may be within a single-family detached dwelling or a detached accessory building on the same lot as a principal dwelling.
2. The accessory dwelling unit must have a bathroom and shall share the same sewage disposal and water supply systems as the principal dwelling unit unless separate sewer and water connections are required by the City of Cape Coral.

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- 751 3. A minimum of one additional off-street parking space shall be provided. The additional space shall
752 be on the same lot as the principal dwelling unit.
753
- 754 4. No new access points or driveways shall be created or installed for access to the ADU.
755
- 756 5. The accessory dwelling may contain no more than a living area, one bedroom, one bath, and a
757 kitchen.
758
- 759 6. The owner of the property shall live in the principal dwelling or the ADU.
760
- 761 B. ADUs within a single-family dwelling shall comply with the following:
762
- 763 1. There shall only be one entrance to the front of the house. Separate entrances to an ADU are
764 permitted at the side or the rear of the principal dwelling unit.
765
- 766 2. If the ADU and the principal residence are on the same floor or story, the ADU shall be limited to
767 30 percent of the total living area of the principal dwelling or 800 square feet, whichever is less.
768 If the ADU is on a single floor or story and there is no increase in the size of the house, the entire
769 floor or story may be used for the ADU.
770
- 771 C. Detached structures serving as an ADU shall comply with the following:
772
- 773 1. May not exceed one story.
774
- 775 2. Must comply with the zoning district dimensional regulations.
776
- 777 3. Maximum building height shall not exceed 14 ft.
778
- 779 4. May not exceed 30 percent of the area of the primary structure or 800 square feet, whichever is
780 less.
781

782 **Section. 5.2.3. Arbors, trellises, and pergolas.**
783

- 784 A. Arbors, trellises, and pergolas shall be allowed as freestanding or attached structures. There is no limit
785 on the number of attached pergolas, arbors, and trellises per primary structure.
786
- 787 B. Freestanding pergolas and arbors are limited to 200 square feet of coverage per single-family
788 detached residential property. Freestanding pergolas and arbors are limited to 100 square feet per
789 unit of a duplex property.
790
- 791 C. The amount of freestanding square footage coverage for multi-family residential developments may
792 be determined by the Community Development Director. The criteria for this determination include:
793
- 794 1. Design, size, location, and number of proposed arbors, trellises, and pergolas;
795

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796 2. Design, size of property, location, and number of units of the multi-family residential
797 development; and

798

799 3. Whether the structure will be contrary to the public interest.

800

801 D. Attached pergolas.

802

803 1. Attached pergolas may be placed over the front entrance or walkway into a residence, and must
804 not extend beyond the most forward portion of the primary structure.

805

806 2. A pergola is considered attached if a minimum of 20% of the pergola’s perimeter is attached to
807 the primary structure.

808

809 3. A pergola that is attached to a previously-attached pergola is considered to be an extension of
810 the original attached pergola; the enlarged pergola must abide by the setback requirements listed
811 in Table 5.2.1.A.

812

813 E. Pergolas, generally.

814

815 1. Pergolas must conform to all zoning requirements in terms of height and setbacks.

816

817 2. The only exception to the prohibition of the placement of a pergola in the rear setback is for
818 pergolas on docks.

819

820 3. If placed in the rear yard of a waterfront property, or on a dock, pergolas must not unreasonably
821 restrict or block the view of the canal or waterway of an adjoining lot.

822

823 **Section. 5.2.4. Attached and detached garages.**

824

825 A. All single-family detached and each unit of a duplex structures shall include a garage with minimum
826 dimensions of 14 feet by 20 feet. Carports are prohibited on single-family detached and duplex
827 residential properties requiring a garage.

828

829 B. For attached garages, the following shall apply:

830

831 1. A garage shall be considered attached if it shares at least a four-foot length of common wall with
832 the principal structure. Attachment through a roof structure only shall not be adequate to
833 consider the garage attached.

834

835 2. For purposes of this LDC, an attached garage shall be considered to be a part of the principal
836 structure and shall comply with all district regulations for the zoning district in which it is located.

837

838 3. An operable garage door capable of providing access to the garage by a motor vehicle is required.

839

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- 840 4. A driveway providing vehicular access to the garage is required and shall be constructed and
841 maintained in a condition that is safe and free of potholes, and in accordance with the City of
842 Cape Coral Engineering Design Standards.
843
- 844 5. The garage shall not be included in determining the living area.
845
- 846 6. No garage or storage area shall be used as living quarters unless another garage is constructed
847 prior to conversion.
848
- 849 C. For detached garages, the following shall apply:
850
- 851 1. A detached garage shall meet all of the setback requirements of the principal structure.
852
- 853 2. A detached garage shall be on the same parcel as the principal structure.
854
- 855 3. A detached garage shall not exceed 800 square feet in area.
856
- 857 4. The height of a detached garage shall not exceed 14 feet in height when measured according to
858 the definition of "building height" in the Land Development Code.
859
- 860 5. An operable garage door capable of providing access to the garage by a motor vehicle is required.
861
- 862 6. The maximum size and height restrictions shall not apply in the RE district.
863
- 864 7. No plumbing shall be allowed in a detached garage except that a single one-compartment sink
865 shall be allowed.
866
- 867 8. The exterior building materials of a detached garage shall conform to the exterior building
868 materials of the principal structure.
869
- 870 9. A parcel may contain both an attached and detached garage, but only one detached garage shall
871 be permitted.
872

873 **Section. 5.2.5. Courts and playing surfaces.**
874

- 875 A. Requirements in the R1, RE, RML, and A districts.
876
- 877 1. Lighting is prohibited on all outdoor recreation facilities on all properties containing single-family
878 detached and duplex dwellings.
879
- 880 2. An opaque landscape hedge shall be planted between a recreational facility and a side or rear
881 property line of different ownership. The landscaping shall be maintained at a minimum of four
882 feet in height and shall be provided along the entire length of the recreational facility.
883
- 884 B. Requirements in the RMM or other districts with permitted multi-family uses.
885

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- 886 1. Lighting may be installed to allow evening use of the facility. All outdoor lighting shall be installed
887 and maintained in such a manner that the light falls substantially within the perimeter of the
888 property through the use of shielding and limitations on intensity. In no instance shall the facility
889 lighting create glare off of the property exceeding 0.3 footcandles which impacts any roadway.
890 Directional lighting may not be installed which shines directly into any dwelling unit.
891
- 892 2. An opaque landscape buffer, a minimum of four feet in height, shall be installed which shields the
893 recreational facility from any adjacent right-of-way. Fencing may be installed to a maximum
894 height of ten feet.
895

896 **Section. 5.2.6. Decks.**

- 897
- 898 A. Decks extending into rear or side yard may not exceed a height of 30 inches above grade. Decks over
899 30 inches in height shall meet all setbacks.
900
- 901 B. Deck height shall be measured from the walking surface of the deck, not the railing.
902
- 903 C. Railing shall be spaced in such a way as to allow air and light to pass through.
904

905 **Section. 5.2.7. Fences and walls.**

- 906
- 907 A. General Requirements.
- 908
- 909 1. All fences shall be of sound construction and not detract from the surrounding area.
910
- 911 2. No barbed wire, spire tips, sharp objects, or electrically charged fences shall be erected, except
912 as otherwise provided herein. This shall not be interpreted to mean that bona fide agricultural
913 users cannot use barbed wire or electrically charged fences to control livestock when located in
914 districts permitting the raising, keeping, or breeding of livestock.
915
- 916 3. No fences shall be placed within the visibility triangle.
917
- 918 4. If a fence or wall is located in a public utility or drainage easement, the property owner shall be
919 solely responsible for removal of the fence or wall as well as for any cost resulting from
920 disturbance, damage, or destruction of the fence or wall resulting from work associated with
921 utilities or drainage facilities, including those related to alley improvements within such
922 easement.
923
- 924 5. No fence shall enclose any utility meter, including water and electric service meters. The
925 location of any utility meters shall be shown in the permit application. This restriction shall not
926 apply to city maintained or constructed facilities.
927
- 928 6. Unless the posts or other supports used in connection with the fence or wall are visible from
929 and identical in appearance from both sides of the fence, all posts or other supports used in
930 connection with the fence or wall shall be on the side of the fence or wall that faces the property
931 on which it is to be erected. If a fence or wall is constructed in such a way that only one side of

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932 the fence is "finished", then the "finished" side of the fence shall face outward toward the street
933 or adjoining property (facing away from the property on which it is erected). The "finished" side
934 of the fence shall be the side that is painted, coated, or smoothed so as to be more decorative
935 in appearance.

936
937 7. Fencing for critical public utilities infrastructure, including water and wastewater facilities and
938 electric and natural gas facilities, which may enclose either an entire site or only an area
939 containing equipment, may be maintained at a height of eight feet. Barbed wire, spire tips,
940 sharp objects, or electrically charged fencing are permitted on the top of fencing around critical
941 infrastructure sites or equipment, however, the height of the fencing together with any barbed
942 wire, spire tips, sharp objects, or electrically charged fencing may not exceed eight feet, and
943 only the top two feet may contain barbed wire, spire tips, sharp objects, or electrically charged
944 fencing.

945
946 8. A fence shall not be constructed on unimproved property.

947
948 9. No wall or fence of any kind whatsoever shall be constructed on any lot until after the height,
949 type, design, and location has been approved in writing and proper permit issued by the
950 Director.

951
952 10. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must
953 immediately enclose the recreational facility. Hooded backstops for diamond sports may be
954 increased to a maximum height of 28 feet. For sports other than diamond sports, backstops
955 may be increased to a height of 12 feet. All fencing at recreational facilities must be constructed
956 of at least nine-gauge fence fabric and schedule 40 tubing.

957
958 11. A may be maintained at a height greater than otherwise allowed herein if a higher fence height
959 is required by the city for the purpose of screening a special exception use.

960
961 12. A fence or wall shall be constructed of one or more of the following materials:

- 962
- 963 1. Wood (decay resistant or pressure treated only), shall be painted or stained;
 - 964
 - 965 2. Concrete block with stucco (CBS);
 - 966
 - 967 3. Reinforced concrete with stucco;
 - 968
 - 969 4. Stone or brick, including cast (simulated) stone or brick;
 - 970
 - 971 5. Concrete;
 - 972
 - 973 6. Wrought iron;
 - 974
 - 975 7. Aluminum; or
 - 976
 - 977 8. Plastic or vinyl.

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For fences or walls located in a public utility or drainage easement, only the following materials are permitted:

1. Wood (decay resistant or pressure treated only);
2. Aluminum;
3. Chain-link without slats; or
4. Plastic or vinyl.

B. Residential Zoning Districts.

1. A No fence shall be maintained at a height greater than six feet, and no wall or fence shall be erected or placed within the front setback lines of any residential lot, except if a residential use abuts property used for commercial or professional purposes, a fence may be maintained at a height up to eight feet along the side(s) of the property which abut(s) the property or properties containing commercial or professional uses. For purposes of this section, a property shall be deemed to abut another property if the two properties are either immediately adjacent to each other or separated only by an alley. Properties separated by a street, canal, lake, or other body of water shall not be deemed to be abutting properties.
2. Any fencing within 20 feet of the rear property line on waterfront sites must be open mesh above a height of three feet. The Director may, in his or her discretion, approve minor projections above the restricted heights for architectural features.
3. No part of a fence shall be located forward of the forward-most part of the side of the principal structure to which the fence is closest. In no instance shall a fence enclose any portion of the front facade of the principal structure.
4. No fence, hedge, or other growth shall be erected on any residential property within the city which shall unreasonably restrict or block the view of a canal or other waterway from an adjoining lot, or except as required to screen a special exception use. No fence or hedge or other growth shall be erected on property which would obstruct the view of either a pedestrian or driver of a moving vehicle so as to create a hazard to the health and welfare of its citizens.
5. Multi-family developments over 1 acre in size may construct a fence or wall around the entire perimeter of the property or in a location not otherwise allowed by this subsection.

C. Non-Residential and Mixed-Use Zoning Districts.

1. Construction of fences must meet the following restrictions:
 - a. Maximum height: six feet (except that property in a commercial, professional, or mixed-use zoning district, which contains a non-residential use, and which abuts a residential use,

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1024 whether such use is in a residential zoning district or mixed-use zoning district, may erect a
1025 fence up to eight feet in height along the side(s) of the property which abut(s) a residential
1026 use. A property shall be deemed to abut another property if the two properties are
1027 immediately adjacent to each other or separated by only an alley. Properties separated by
1028 a street, canal, lake, or other body of water shall not be deemed to be abutting properties.

1029
1030 b. Required setbacks:
1031

Front	No part of a fence shall be located forward of the forward-most part of the side of the principal structure to which the fence is closest. In no instance shall a fence enclose any portion of the front facade of the principal structure.
Side (not on a corner site)	None
Side (corner site)	None for free-standing residential uses in mixed-use zoning districts; 7 feet for non-residential and compound uses in Marketplace Residential zoning district; 10 feet for non-residential and compound uses in all other commercial, professional, and mixed-use zoning districts
Rear (not on alley)	None
Rear (on alley)	10 feet

1032
1033 D. Multi-family developments over 1 acre in size may construct a fence or wall around the entire
1034 perimeter of the property or in a location not otherwise allowed by this subsection.

1035
1036 E. Industrial zoning district:
1037
1038 1. Maximum height: eight feet.
1039
1040 2. Required setbacks: none, except that fences shall be setback 10' from alleys.
1041
1042 3. Fencing shall provide an opaque visual barrier, constructed of materials which conform to
1043 applicable codes, to conceal storage areas.

1044
1045 F. Agricultural zoning district:
1046
1047 1. Maximum height: eight feet.
1048
1049 2. Required setbacks: none.

1050
1051 G. Institutional zoning district:
1052
1053 1. Maximum height: eight feet.
1054
1055 2. Required setbacks: none, except that fences shall be setback 10' from alleys.
1056
1057 3. Fencing shall provide an opaque visual barrier, constructed of materials which conform to
1058 applicable codes, to conceal storage areas.

1059
1060 H. Preservation zoning district:
1061

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- 1062 1. Maximum height: eight feet.
1063
1064 2. Required setbacks: none.
1065
1066 I. South Cape and MXB zoning district(s):
1067

- 1068 1. Maximum height.
1069
1070 a. When placed in front yards, 42 inches.
1071
1072 b. When not placed in front yards, six feet (except that a property which contains a non-
1073 residential use, and which abuts a property containing a residential use, whether such use
1074 is in a residential zoning district or mixed-use zoning district, may erect a fence up to eight
1075 feet in height along the side(s) of the property which abut(s) a property containing a
1076 residential use). For purposes of this subsection, a property shall be deemed to abut
1077 another property if the two properties are either immediately adjacent to each other or
1078 separated by only an alley. Properties which are separated by a street, canal, lake, or other
1079 body of water shall not be deemed to be abutting properties.
1080
1081 c. Fences, walls, and hedges may be maintained at a height greater than otherwise allowed
1082 herein if a higher height is required by the city for the purpose of screening a special
1083 exception use.
1084
1085 d. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must
1086 immediately enclose the recreational facility. Hooded backstops for diamond sports may be
1087 increased to a maximum height of 28 feet.
1088
1089 e. Required setbacks:
1090

Front	None
Side or rear (not on alley)	None
Side or rear (on an alley)	15 feet from the alley centerline
Abutting a navigable waterway	10 feet

1091
1092 **Section.5.2.8. Flags and Flagpoles.**
1093

- 1094 A. Residential zoning districts or sites with residential uses shall be limited to no more than two flagpoles.
1095
1096 B. In non-residential zoning districts, in mixed use zoning districts, and on sites containing non-
1097 residential uses in residential zoning districts, no more than three flagpoles are allowed on a site.
1098
1099 C. Flagpoles shall not exceed 35 feet in height other than those on non-residential properties abutting
1100 Pine Island Road which shall not exceed 80 feet in height.
1101
1102 D. The installation of a flag standard on a site does not require a permit. The number of flags that may
1103 be displayed on a flagpole or on a single flag standard is not limited.
1104

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1105 E. For the purposes of this article, flags on non-residential, private property which contain a symbol
1106 other than that of a nation, government, political subdivision, or other entity shall be presumed
1107 commercial; however, it shall be considered a rebuttable presumption, which may be overturned by
1108 the Director if the evidence contradicting it is true or if a reasonable person of average intelligence
1109 could logically conclude from the evidence that the presumption is not valid.
1110

1111 **Section. 5.2.9. Fountains, reflecting pools, and sculptures.**
1112

- 1113 A. Fountains and sculptures shall not to exceed 12 feet in height.
1114
1115 B. Reflecting pools greater than 24 inches in depth deep shall be fenced for safety.
1116

1117 **Section. 5.2.10. Gazebos, sun shelters, and similar structures.**
1118

- 1119 A. Gazebos, sun shelters, and similar structures on residential single-family detached or duplex parcels
1120 may not exceed 150 square feet in roof coverage. The total area of all such structures shall not exceed
1121 300 square feet.
1122
1123 B. All structures in all other zoning districts may not exceed 300 square feet.
1124
1125 C. The maximum height shall not exceed 14 feet above grade from the lowest point of the grade under
1126 the shelter, including overhangs.
1127
1128 C. These structures shall not be constructed within six feet of any rear lot line except on waterfront lots
1129 where sun shelters are permitted to be constructed on docks. These structures shall not overhang the
1130 edges of the dock or be constructed over an easement.
1131

1132 **Section. 5.2.11. Guest houses.**
1133

- 1134 A. Detached structures serving as a guest house shall comply with the following:
1135
1136 1. Guest Houses shall only be on constructed on sites with a principal residential dwelling unit.
1137
1138 2. May not exceed one story.
1139
1140 3. Maximum building height shall not exceed 14 ft.
1141
1142 4. May not exceed 30% of the area of the primary structure or 800 square feet, whichever is less.
1143
1144 B. A guest house is not a dwelling unit to be rented, it provides only guest accommodations and shall
1145 meet the following requirements:
1146
1147 1. A guesthouse may not contain more than two bedrooms.
1148
1149 2. A guesthouse may not contain a kitchen or the electrical or gas connections to install a stove or
1150 oven.

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1151
1152 3. An additional parking space must be provided for a guesthouse.

1153
1154 **Section. 5.2.12. Play or recreation equipment.**

1155
1156 A. On residential single-family detached and duplex properties, the City shall not be responsible for
1157 permitting and inspection of play equipment.

1158
1159 B. Play equipment for other than single-family detached and duplex properties must be permitted and
1160 inspected prior to any use.

1161
1162 **Section. 5.2.13. Sheds and greenhouses.**

1163
1164 A. The maximum height of a shed or greenhouse shall not exceed 15 feet in overall height.

1165
1166 B. The maximum floor area shall not exceed 200 square feet.

1167
1168 C. Sheds and greenhouses are allowed in the R1, RML, RE, and A districts.

1169
1170 D. A lot may contain no more than one shed and one greenhouse.

1171
1172 E. Sheds and greenhouses may be within the side yard of a parcel so long as the shed or greenhouse is
1173 screened. Screening is required for that portion of the wall of the shed or greenhouse that is visible
1174 from the right-of-way and the nearest adjoining residential property. A wall, fence, shrubs, or a
1175 combination thereof may be used to meet screening requirements as follows:

1176
1177 1. If an opaque wall or fence is used for screening, the wall or fence shall be six-feet in height. The
1178 wall or fence may be constructed of wood, vinyl, or a material that has the appearance of wood
1179 or vinyl, or the wall may be masonry, but not be unfinished concrete block. All other materials are
1180 prohibited. A screening wall with a continuous foundation may not encroach into any easement.

1181
1182 2. Alternatively, sheds or greenhouses may be screened with shrubs that meet the following
1183 requirements:

1184
1185 a. A row of shrubs planted along both sides of the shed and extend at least five feet beyond the
1186 walls of the shed or greenhouse.

1187
1188 b. All shrubs required for screening within this subsection shall be a minimum of 32 inches in
1189 height and be in at least a seven-gallon container size at the time of planting. All shrubs shall
1190 be planted no more three feet apart as measured on center.

1191
1192 c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be
1193 maintained in good condition as long as the shed requires screening pursuant to this
1194 subsection.

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- 1196 3. A shed or greenhouse that would be visible from the right-of-way or from the nearest adjoining
1197 property, but for an existing fence, wall, or landscaping that shields the shed or greenhouse is
1198 exempt from additional screening requirements. In the event the screening is removed or altered
1199 to cause the shed or greenhouse to be visible from the right-of-way or nearest adjoining property,
1200 the shed or greenhouse shall be screened in accordance with those requirements outlined above
1201 or moved to fully comply with this Section.
1202
- 1203 4. On a double frontage lot, sheds or greenhouses shall be screened from view from rights-of-way
1204 and adjoining properties. See Diagram 5.12.1.2B. Double frontage lot fence and accessory
1205 structure requirements.
1206
- 1207 5. On double frontage lots, sheds or greenhouses in the rear yard shall be setback to a distance
1208 equivalent to the front setback of any adjacent lots that are not double frontage lots.
1209

Section. 5.2.14. Solar Photovoltaic (PV) Arrays.

- 1211 A. General requirements.
- 1212 1. Permitted accessory equipment. Rooftop photovoltaic solar systems shall be deemed permitted
1213 accessory equipment for all buildings in all zoning categories. Nothing contained in this chapter
1214 shall be deemed to prohibit the installation of rooftop photovoltaic solar systems on buildings
1215 containing legally nonconforming uses.
1216
- 1217 2. Maintenance. The photovoltaic system shall be properly maintained and be kept free from
1218 hazards, including faulty wiring, loose fastenings, or being maintained in a condition that is unsafe
1219 or detrimental to public health, safety, or general welfare.
1220
- 1221 3. Abandonment. Abandoned or unused freestanding solar energy systems not in use for a period
1222 of 18 months shall be removed at the owner's expense.
1223
- 1224 B. Building-mounted PV systems.
1225
- 1226 1. Roof mounted:
1227
- 1228 a. Notwithstanding the height limitations of the zoning district, building mounted solar energy
1229 systems shall not extend higher than three feet above the ridge level of a roof, for structures
1230 with gable, hip, or gambrel roofs and shall not extend higher than 10 feet above the surface
1231 of the roof when installed on flat or shed roof.
1232
- 1233 b. The solar collector surface and mounting devices shall be set back not less than one foot from
1234 the exterior perimeter of a roof for every one foot that the system extends above the roof
1235 surface on which the system is mounted. Solar energy systems that extend less than one foot
1236 above the roof surface shall be exempt from this provision.
1237
- 1238 2. Wall mounted or flush to a building or structure:
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- 1240
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- 1242 a. PV arrays are allowed on the walls or sides of any building or structure but shall not encroach
1243 into the required front yard setback and may not encroach into side and rear yard setback by
1244 more than three feet and shall not extend into or over an easement.
1245
- 1246 b. A minimum of nine feet vertical distance shall be maintained under the PV array where
1247 needed to provide adequate clearance for pedestrians.
1248
- 1249 c. To the maximum extent possible, wall mounted PV arrays shall be designed as compatible to
1250 the structure and surface to which it is attached.
1251
- 1252 C. At-grade PV systems.
1253
- 1254 ~~1. Applicability. The following regulations apply to any PV array that is erected or installed at grade~~
1255 ~~(ground level).~~
1256
- 1257 2.1. Exemptions. The restrictions of this Subsection with respect to height, location, and setbacks are
1258 not applicable to any accessory component to a freestanding outdoor lighting fixture, telephone
1259 pole, parking meter, or any other similar structure, as determined by the city.
1260
- 1261 ~~3.2.~~ Height. The maximum height of any at-grade PV array shall not exceed twelve feet, except for
1262 residential locations, as established in subsection 3., below.
1263
- 1264 4.3. Residential location. For PV arrays in or abutting residential zoning districts, the following
1265 requirements apply: minimum setbacks are as follows:
1266
- 1267 a. PV arrays up to ~~ninesix~~ feet in height are allowed;
1268
- 1269 ~~a.b.~~ PV arrays shall be setback at least seven and one-half feet from ~~the rear and~~ interior side
1270 property lines and 10' from rear property lines;
1271
- 1272 ~~b.~~ ~~Arrays greater than nine feet in height shall be setback at least 10 feet from such property~~
1273 ~~lines.~~
1274
- 1275 c. PV arrays are not allowed within the front setback or front yard of a residentially zoned
1276 property; ~~and~~.
1277
- 1278 d. The area of the solar collector surface of freestanding solar energy systems shall not exceed
1279 five percent of the lot area.
1280
- 1281 4. Commercial location. For PV arrays in non-residential zoning districts and not adjacent to
1282 residentially zoned property, at-grade PV systems must meet all setback requirements for a
1283 structure within the zoning district.
1284
- 1285 5. The supporting framework for freestanding solar energy systems shall not include unfinished
1286 lumber.
1287

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1288 **Section. 5.2.15. Swimming Pools.**

- 1289
- 1290 A. The construction of portable or permanent swimming pools or hot tubs is prohibited in the front yard
- 1291 of any residential lot, other than RE zoned parcels greater than 3 acres.
- 1292
- 1293 B. Pools, hot tubs, and pool decks in rear or side yards may not exceed a height of 30 inches above grade.
- 1294
- 1295 C. All swimming pools and enclosures constructed or erected on any parcel, other than accessory to a
- 1296 single-family detached or duplex residence, shall meet the minimum yard requirements specified for
- 1297 buildings or structures in the zoning district the construction occurs.
- 1298
- 1299 D. Portable swimming pools. Portable swimming pools are prohibited in the front or the side of any
- 1300 residential lot. Portable swimming pools capable of holding 24 inches in depth or more of water shall
- 1301 be anchored into the ground sufficiently to prohibit movement during a hurricane. Portable pools
- 1302 shall be enclosed by a fence or other protective material, or otherwise shall be covered, when not in
- 1303 use, by a protective cover so that a child cannot accidentally enter the pool. Drainage of pools so as
- 1304 to permit the water to run onto property of other people is prohibited. Wading or splash pools not
- 1305 capable of holding 12 inches or more of water are exempt from the provisions of this subsection.
- 1306

1307 **Section. 5.2.16. Unattended donation bins.**

- 1308
- 1309 A. Unattended donation bins are prohibited except within commercial developments and subject to
- 1310 the following requirements: may place a donation bin in the parking lot if the parking lot contains a
- 1311 minimum of 125 parking spaces. All donation bins must meet the following requirements:
- 1312
- 1313 B. Unattended donation bins are permitted only on sites with a minimum of 125 parking spaces;
- 1314
- 1315 C. Bins may not be in a required parking space or a drive aisle;
- 1316
- 1317 D. Bins may not be placed in required landscape buffers and trees may not be removed in order to locate
- 1318 a bin;
- 1319
- 1320 E. Bins shall be maintained in good condition and appearance with no structural damage, holes, or visible
- 1321 rust and shall be free of graffiti;
- 1322
- 1323 F. Bins shall be locked or otherwise secured;
- 1324
- 1325 G. Bins shall contain contact information in accordance with F.S. Chapter 496.4121; and. Bins shall
- 1326 contain the following contact information in two-inch type visible from the front of each unattended
- 1327 donation box: the name, address, email, and phone number of the permittee and operator; and
- 1328
- 1329 H. Bins shall be serviced and emptied as needed, but at least once per month, or within five business
- 1330 days of a request by the City. Boxes, garbage, and donation goods shall not be permitted to
- 1331 accumulate around unattended donation bins.
- 1332

1333 **CHAPTER 3. Land Clearing, Filling, Excavation, and Construction Sites.**

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Section 5.3.1. Borrow pits; regulation of removal or extraction of dirt, soil, sand, rock, oil, gas, etc.; procedures.

- A. Removal or extraction of dirt, soil, and sand.
 - 1. All borrow pits from which dirt, sand or soil has been removed shall be completely enclosed by a fence or earth berm at least six feet in height.
 - 2. Prior to any such removal or excavation, the following shall be submitted to the Department of Community Development: drainage plans, aerial photo of the site, a plan for development of the total site when the removal is completed, the estimated costs of restoring the site to a safe and developable condition, and a deposit of funds or other financial instruments payable to the City of Cape Coral is required equal to the estimated cost of restoring the site. The estimated cost for restoring the site shall include fence or berm removal, lake bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other items that the Department, Hearing Examiner, or Council deems appropriate to ensure that the site is restored to a safe and usable condition. The plans shall be reviewed by the Hearing Examiner and written recommendation made to the Council prior to application for an excavation permit.
 - 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner subject to final approval of the City Council.
- B. Removal or extraction of rock, gravel, shell, aggregate, or marl.
 - 1. All such excavations shall be sealed by fencing or grading or other device from general public access. All entrances to said excavation shall be fenced and locked during nonbusiness hours.
 - 2. Prior to any such removal or excavation, the following shall be submitted to the Department of Community Development: drainage plans, aerial photograph of the site, a plan for development of the total site when the removal is completed, the estimated costs of restoring the site to a safe and developable condition, and a deposit of funds or other financial instruments payable to the City of Cape Coral is required equal to the estimated cost of restoring the site. The estimated cost for restoring the site shall include fence or berm removal, lake, bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other items that the Department, HEX, or Council deems appropriate to ensure that the site is restored to a safe and usable condition. The plans shall be reviewed by the HEX and written recommendation made to the Council prior to application for an excavation permit.
 - 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner subject to final approval by the City Council.
 - 4. No excavation or extraction may be made with explosives without express permission of the Council. Excavation or borrow pit permits involving explosives must be renewed every 90 days.
- C. Excavations, removal, or extraction for purposes of oil or gas exploration or production.

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1. All such excavations, removals, or extractions shall be sealed by fencing or grading or other device from general public access. All entrances shall be fenced and locked during nonbusiness hours.
 2. Prior to any such excavation, removal, or extraction the following shall be submitted to the Department of Community Development: drainage plans, aerial photograph of the site, a plan for development of the total site when the removal is completed, the estimated costs of restoring the site to a safe and developable condition, and a deposit of funds or other financial instruments payable to the City of Cape Coral is required equal to the estimated cost of restoring the site. The estimated cost for restoring the site shall include fence or berm removal, lake, bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other items that the Department, Hearing Examiner, or Council deems appropriate to ensure that the site is restored to a safe and usable condition. The plans shall be reviewed by the HEX and written recommendation made to the Council prior to application for an excavation permit. No permit to drill a gas or oil well shall be issued unless City Council approves the application for such permit by resolution.
 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner subject to final approval by the City Council.
 4. No excavation or extraction may be made with explosives without express permission of the Council. Excavation permits involving explosives must be renewed every 90 days.
 5. No person or entity may engage in any oil and gas exploration or production that utilizes well stimulation within the corporate boundaries of the City of Cape Coral or, consistent with F.S. §377.24(6), within the tidal waters of the state abutting or immediately adjacent to the corporate limits of the municipality, or within three miles of the City's corporate limits extending from the line of the mean high tide. As used in this section, the term "well stimulation" shall mean a well intervention, exploration, operation, or maintenance procedure performed by injecting fluid into a rock formation in order to increase production at an oil or gas well by improving the flow of hydrocarbons from the formation into the wellbore. Well stimulation does not include routine well cleaning that does not affect the integrity of the well or the formation.
- D. Procedures.
1. The applicant shall meet with the Director and other city staff deemed appropriate by the Director prior to a public hearing with the Hearing Examiner to review staff concerns and to establish the basis for determining cost estimates as required.
 2. All excavation or borrow pit requests shall be reviewed by the city staff, the Lee County Health Department, and the Hearing Examiner. After their review and recommendation, the City Council shall call for a public hearing on the application and shall determine whether or not said application shall be granted.

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- 1426 3. If the conceptual plan as presented by the applicant will require a zoning amendment for
1427 development, the applicant must prepare and submit a planned development project for the
1428 entire project prior to approval of the excavation.
1429
- 1430 4. If the excavation or borrow pit application is approved, the applicant may then apply for an
1431 excavation or borrow pit permit.
1432

1433 **Section. 5.3.2. Land Clearing, Filling, and, Excavation.**
1434

1435 A. Proposed alterations to ground elevation or vegetative cover not associated with an approved Site
1436 Development Plan, Final Subdivision Plan, or building permit shall be submitted to the Director with
1437 an application for a permit for Land Clearing and Fill containing the required plans and documentation.
1438 The director may require certification by a registered professional engineer that site improvements
1439 have been made in accordance with permits issued pursuant to this Section.
1440

1441 A.B. The following activities shall require a site improvement permit:
1442

- 1443 1. Clearing of trees and vegetation without disturbing the soil surface;
1444
1445 2. Clearing including stump removal and grubbing of top soils; and
1446
1447 3. Filling.
1448

1449 B.C. Maintenance:
1450

- 1451 1. The applicant shall be responsible for the maintenance, repair, and replacement of all existing
1452 vegetation as may be required by the provisions of Chapter 8.
1453
1454 2. In buffer areas and areas outside the impervious cover, plant material shall be tended and
1455 maintained in a healthy growing condition and free from refuse and debris. Plant materials
1456 required by Chapter 8 of this article which is unhealthy, dying, or dead shall be replaced during
1457 the next planting season.
1458

1459 E.D. Excavation involving more than surface contouring for erosion control is only permitted with approval
1460 of a Site Development Plan or ~~Final~~ Subdivision Construction Plan.
1461

1462 F.E. In all districts, other than agriculture zoning, the city shall not permit any new borrow pits or mining
1463 activities, however, reshaping or restoration of existing borrow pits may only be permitted incidental to
1464 an approved Site Development Plan or ~~Final~~ Subdivision Construction Plan. Agriculturally zoned lands may
1465 propose new borrow pits as a Special Exception.
1466

1467 F.G. The following land clearing activities shall not require a permit:
1468

- 1469 1. Removal of invasive plants without disturbance of the soil; or
1470
1471 2. Land clearing for agricultural uses.

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Section. 5.3.3. Construction Site Maintenance.

Construction sites shall be maintained in a manner which is non-deleterious to nearby properties. The requirements of this Section set minimum standards for the operation of the project site to eliminate or minimize impacts to the site and to the neighborhood to include vehicle parking and loading area, traffic control, fencing, placement of materials, safety, neatness, and cleanliness.

- A. Construction site management plan required. All development and building permit applications must be accompanied by a construction site management plan, unless waived by the building official or development services manager.
 - 1. Parking plan shall include:
 - a. Location of on-site and adjacent unpaved portion of the right-of-way parking and the maximum number of vehicles that will be parked along the unpaved portion of the right-of-way.
 - b. Parking plan for worker vehicles and machinery on the site.
 - c. A single access with dimensions.
 - 2. A temporary fence location, height, and type shall comply with the following:
 - a. For the purposes of construction site screening only, chain link fencing is permitted and shall be faced with a screen mesh.
 - b. A maximum height of six feet in residential zoned properties and eight feet in commercially zoned properties.
 - c. Fencing may not be required in agriculture or preservation zoned properties, upon a determination by the Director.
 - 3. Construction trailers, loading and unloading areas, and material storage areas shall not be stored in areas intended for stormwater retention or rain gardens.
 - 4. Traffic control plans shall include:
 - a. Access points with dimensions;
 - b. Area to be stabilized and a written plan on staging of construction related traffic including adequate parking (both on and off-site); and
 - c. Plan for delivery of materials.

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1517 B. Approval of plan and waivers. The building official or development services manager shall review,
1518 approve, or deny the construction site management plan and is authorized to grant waivers from
1519 submittal requirements:

1520

1521 1. If the requirement is unrelated to proposed development;

1522

1523 2. If the impact of the proposed development is negligible in that submittal requirement area; or

1524

1525 3. If unusual site conditions do not allow full compliance with this Section.

1526

1527 **CHAPTER 4. MARINE IMPROVEMENTS.**

1528

1529 **Section. 5.4.1. Purpose and Intent**

1530

1531 In order to allow all waterfront property the same ability to utilize and access adjacent waterways, the
1532 development of docks, wharves, mooring piles, and watercraft moorings must be accomplished in a
1533 standard and unified manner. Boat slips and docks may be constructed by the owner of a waterfront lot,
1534 with adequate water frontage, where a principal building exists.

1535

1536 **Section. 5.4.2. General Requirements.**

1537

1538 A. An applicant who disagrees with the measurement of the calculated waterway width by the city's
1539 Geographic Information System (GIS) may submit a survey of the waterway width, prepared by a
1540 professional surveyor licensed in the state of Florida, to support the applicant's contention that the
1541 calculated waterway width is inaccurate.

1542

1543 B. No dock or piling shall be permitted that interferes with the right to navigate safely within the
1544 waterways of the city. In no event shall the navigable area be reduced to less than 50% of the
1545 calculated waterway width.

1546

1547 C. The elevation of pilings shall not exceed 10 feet above the seawall cap or, if no seawall exists, 13 feet
1548 above mean water level.

1549

1550 D. The elevation of the decking of a marine improvement shall not exceed two feet above the seawall
1551 cap, or if no seawall exists, five feet above mean water level. For marine improvements in the
1552 Caloosahatchee River, and for marine improvements in canals within 300 feet of the platted shoreline
1553 of the Caloosahatchee River, the elevation of the decking shall not exceed four feet above the seawall
1554 cap, or if no seawall exists, seven feet above mean water level.

1555

1556 E. All pilings or mooring posts shall be offset a minimum of two and one-half feet from any storm drain
1557 outfall pipe. Such measurement shall be made from the outside edge of the outfall pipe to the center
1558 of the piling or mooring post.

1559

1560 F. All docks permitted under this Section that project from a parcel with a seawall shall have a ladder
1561 extending from the dock into the waterway. No ladder extending from a dock into a waterway shall
1562 be made of wood.

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1563
1564 G. The property owner shall be solely responsible for compliance with all applicable provisions of the Lee
1565 County Manatee Protection Plan.
1566

1567 H. Prior to the final inspection by the City, the owner shall submit a final signed and sealed survey
1568 showing that all construction is in compliance with the requirements of this Code.
1569

Section. 5.4.3. Dimensional Standards

1570
1571
1572 A. Protrusions into waterway.
1573

1574 1. Marine improvements may extend 25% of the calculated waterway width or 40 feet, whichever
1575 is less, as measured from the water frontage line, provided the marine improvements are setback
1576 12 feet from each extended side property line.
1577

1578 2. Marine improvements which extend six feet or less into a waterway such as captains' walks, as
1579 measured from the water frontage line, may extend the full length of the water frontage of the
1580 parcel.
1581

1582 3. Marine improvements in the Caloosahatchee River shall be subject to state and federal
1583 regulations.
1584

1585 4. Marine improvements for outside corner parcels, excluding a "T" intersection, of two canals, may
1586 extend into the waterways as follows:
1587

1588 a. Extend the two waterfrontage lines (Diagram 5.4.3.A.) of the property to a point equal to 25%
1589 of the canal width or 40 feet, whichever is less.
1590

1591 b. Then, in each intersecting canal, the extended waterfrontage lines shall run parallel to the
1592 waterfrontage lines and shall be setback 12 feet from the extended side property line.
1593

1594 c. The area formed by the aforesaid lines and area of intersection, shall be the area permitted
1595 for marine improvements.
1596

1597 5. Marine improvements for end parcels. Parcels at or adjacent to canal ends or parcels on lakes and
1598 basins (excluding outside corner parcels) are subject to the following:
1599

1600 a. Except for parcels governed by Section 5.4.3.A, end parcels shall be permitted to have marine
1601 improvements projecting into the waterway up to a maximum of 30 feet. Adjacent parcels
1602 shall be permitted to have marine improvements projecting into the waterway up to a
1603 maximum of 30 feet or 25% of the calculated canal width, whichever is less.
1604

1605 b. With respect to end parcels with at least 80 feet of water frontage line, no part of a marine
1606 improvement which extends more than six feet in to a canal shall be located less than 12 feet
1607 from the ends of the water frontage line of the parcel. See Diagrams 5.4.3.A. & J
1608

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- 1609 c. With respect to end parcels with more than 40 feet, but less than 80 feet, of water frontage
1610 line, any part of a marine improvement which extends more than six feet into a canal shall be
1611 set back from the ends of the water frontage line of the parcel in accordance with the
1612 following formula: $(\text{Parcel Waterfrontage} - 40 \text{ feet}) \times 0.3$. The foregoing restrictions shall apply
1613 to marine improvements projecting from adjacent parcels (based on the length of their
1614 waterfrontage lines) in the same manner as end parcels, except that on the side of the
1615 adjacent parcel that abuts an end parcel, a marine improvement may be built up to the side
1616 boundary of the adjacent parcel's marine improvement area, as determined pursuant to
1617 paragraph 10.b below. See Diagram 5.4.3.H
1618
- 1619 d. With respect to end and adjacent parcels with 40 feet or less of water frontage, no marine
1620 improvement shall extend more than six feet into the canal except in accordance with the
1621 following: $(\text{Parcel Waterfrontage} - 40 \text{ feet}) \times 0.3$. The foregoing restrictions shall apply to
1622 marine improvements projecting from adjacent parcels (based on the length of their
1623 waterfrontage lines) in the same manner as end parcels, except that on the side of the
1624 adjacent parcel that abuts an end parcel, a marine improvement may be built up to the side
1625 boundary of the adjacent parcel's marine improvement area, as determined pursuant to
1626 paragraph 10.b below.
1627
- 1628 e. With respect to end and adjacent parcels with 40 feet or less of water frontage, no marine
1629 improvement shall extend more than six feet into the canal except in accordance with the
1630 following:
- 1631 i. Such a parcel may have either a platform dock not more than ten feet wide and extending
1632 not more than 16 feet into the canal or not more than two finger piers (with or without a
1633 boat lift) that together total no more than six feet in deck width and that extend not more
1634 than 30 feet into the canal.
- 1635 ii. No marine improvement that projects more than six feet into the canal shall extend more
1636 than ten feet either side of the center point of the water frontage line of the parcel.
1637 Furthermore, no marine improvement shall extend beyond the ends of the water
1638 frontage line of the parcel. All marine improvements shall be centered on the centerline
1639 of the waterfront parcel's marine improvement area. See Diagram 5.4.3.F
1640
- 1641 7. When a parcel is at the corner of a waterway so as to include water frontage (all under the same
1642 ownership) on both the side and end of a waterway, the property owner may install or erect a
1643 marine improvement that extends from the side of the waterway to a maximum distance of 25%
1644 of the calculated width of the waterway or 30 feet, whichever is less, and from the end of the
1645 waterway a distance of 30 feet into the waterway.
1646
- 1647 8. Except as otherwise provided herein for joint marine improvements, no marine vessel (or any part
1648 thereof) when secured in any way to a marine improvement projecting from an end parcel, an
1649 adjacent parcel, or a parcel on a lake or basin (excluding outside corner parcels) shall extend
1650 beyond the boundaries of the marine improvement area of the parcel unless prior written consent
1651 of the affected property owner is obtained. Such consent shall be revocable by the affected
1652 property owner and shall automatically terminate in the event the ownership of the affected
1653 property changes. In the event ownership changes, the written consent of the new owner must

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1654 be obtained if the marine vessel is to continue to extend beyond the ends of the water frontage
1655 of the parcel.

1656
1657 9. Marine improvements that do not project more than six feet into a waterway as measured from
1658 the water frontage line may extend the full length of the water frontage of the parcel. However,
1659 where the end of a parcel water frontage line abuts the water frontage line of another parcel, the
1660 angle at which such two water frontage line ends meet shall be bisected and apportioned equally
1661 between the two waterfront parcels. In that event, no marine improvement shall extend beyond
1662 the bisector of the angle.

1663
1664 10. No marine improvement that projects more than six feet from the water frontage line of the
1665 property shall be permitted to be outside of the marine improvement area for a waterfront parcel.
1666 The boundaries and dimensions of the marine improvement area shall be determined as follows:
1667

1668 a. End parcels.

1669

1670 i. The access width of the waterway shall be calculated by subtracting from the calculated
1671 waterway width twice the maximum distance that a marine improvement along one side
1672 of the waterway could lawfully project as determined pursuant to Section 5.4.4.A.1.

1673 ii. The waterway access ratio shall be calculated by dividing the waterway access width by
1674 the calculated width of the waterway.

1675 iii. The waterway center point (WCP) is a point on the centerline of the canal 30 feet from
1676 the water's end. All marine improvement area lines and intersections are calculated and
1677 plotted from the WCP. See Diagram 5.4.3.B.

1678 iv. Offset points for the parcel are determined as follows: If the parcel has 80 feet or more
1679 of water frontage line, then the offset points shall be located 12 feet from each end of
1680 the water frontage line of the parcel. If the parcel has more than 40 feet, but less than 80
1681 feet of water frontage line, then the offset points shall be located in from the ends of the
1682 water frontage line the distance (in feet) resulting from the following formula: (Feet of
1683 Water Frontage Line - 40) x 0.3. If the parcel has 40 feet or less of water frontage line,
1684 then the ends of the parcel's water frontage line shall be the offset points. See Diagram
1685 5.4.3.C.

1686 v. From the WCP, plot a line having the same relationship to the WCP as the water frontage
1687 line has to the center of the canal end, but with all distances reduced in size by the
1688 waterway access ratio. This line is the offset line for the parcel. See Diagram 5.4.3.D.

1689 vi. The marine improvement area is that area enclosed by the water frontage line, the offset
1690 line, and lines connecting the ends of the offset line to corresponding offset points. See
1691 Diagram 5.4.3.E.

1692
1693 b. Adjacent parcels. The marine improvement area for an adjacent parcel shall be calculated in
1694 the same manner as that for an end parcel except as follows:

1695

1696 i. Adjacent parcel that abuts an end parcel with 40 feet or less of water frontage line. On
1697 the side of the adjacent parcel that abuts an end parcel with 40 feet or less of water
1698 frontage line, the side boundary of the marine improvement area shall constitute the side
1699 boundary of such adjacent parcel's marine improvement area. See Diagram 5.4.3.I. & J.

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- 1700 ii. Adjacent parcel that abuts an end parcel with more than 40 feet of water frontage line.
1701 On the side of the adjacent parcel that abuts an end parcel with more than 40 feet of
1702 water frontage line, the side boundary of the adjacent parcel's marine improvement area
1703 shall be determined by drawing a line from the end of the subject adjacent parcel's water
1704 frontage line (on the same side as the subject end parcel) to the nearest terminus point
1705 of the subject end parcel's offset line and passing through the adjacent parcel's offset line.
1706 The side boundary shall be that portion of the aforesaid line between the end of the
1707 adjacent parcel water frontage line and the parcel's offset line. However, in no event shall
1708 the side boundary extend beyond the bisector of the angle formed where the adjacent
1709 parcel's water frontage line abuts the end parcel's water frontage line. The bisector shall
1710 be extended into the waterway the maximum distance a marine improvement could
1711 lawfully project within the marine improvement area. See Diagram 5.4.3.G.
1712
- 1713 c. Parcels on lakes and basins (excluding outside corner parcels). A waterfront parcel shall be
1714 deemed to be on a lake or a basin if the parcel abuts a body of water identified as a lake or a
1715 basin on the officially adopted Future Land Use Map of the City of Cape Coral. Except for
1716 outside corner parcels, all waterfront parcels on lakes or basins shall be categorized as corner
1717 parcels, adjacent parcels, or end parcels. A corner lake or basin parcel shall be a parcel that
1718 either touches or is on both sides of an interior corner of a lake or basin. In other words, a
1719 corner lake or basin parcel may be one with a water frontage line that is V-shaped because it
1720 physically runs along the edge of the lake or basin, turns at the corner, and continues along
1721 the edge of the lake or basin, or it may be a parcel the water frontage line of which ends at a
1722 corner of the lake or basin where another side of the lake or basin begins, or it may be a parcel
1723 that is angled in such a way that each end of its water frontage line touches a different side
1724 of the lake or basin. Also, an adjacent lake or basin parcel shall be a parcel that is on a lake or
1725 basin and that abuts at least one corner parcel. All other parcels on lakes or basins and that
1726 are neither corner parcels or adjacent parcels shall be treated as end parcels.
1727
- 1728 d. The marine improvement area for parcels on lakes or basins shall be calculated as follows:
1729
- 1730 i. For an end parcel, the side of the lake or basin upon which the parcel is physically located
1731 shall be deemed to be the end of the lake or basin and the sides of the lake or basin shall
1732 be deemed to be the sides of the lake or basin running roughly perpendicular to the end
1733 of the lake or basin and to the left and to the right of the parcel (when facing the lake or
1734 basin). For purposes of this Section, the waterway access ratio for all end lake and basin
1735 parcels shall be one. In addition, the WCP for end lake or basin parcels shall be 40 feet
1736 into the lake or basin as measured perpendicularly to the lake or basin end from the
1737 center of the lake or basin end. All marine improvement area lines and intersections are
1738 calculated and plotted from the WCP. The remainder of the marine improvement area
1739 boundary calculations for end lake or basin parcels shall be the same as those performed
1740 with respect to canal end parcels.
- 1741 ii. For corner lake or basin parcels, the configuration of the marine improvement area shall
1742 be determined by the physical configuration of the particular corner parcel. With respect
1743 to a corner parcel the water frontage line of which lies entirely on one side or end of a
1744 lake or basin, but terminates at the corner of the lake or basin where the other side of
1745 the lake or basin begins, the marine improvement area shall be calculated in the same

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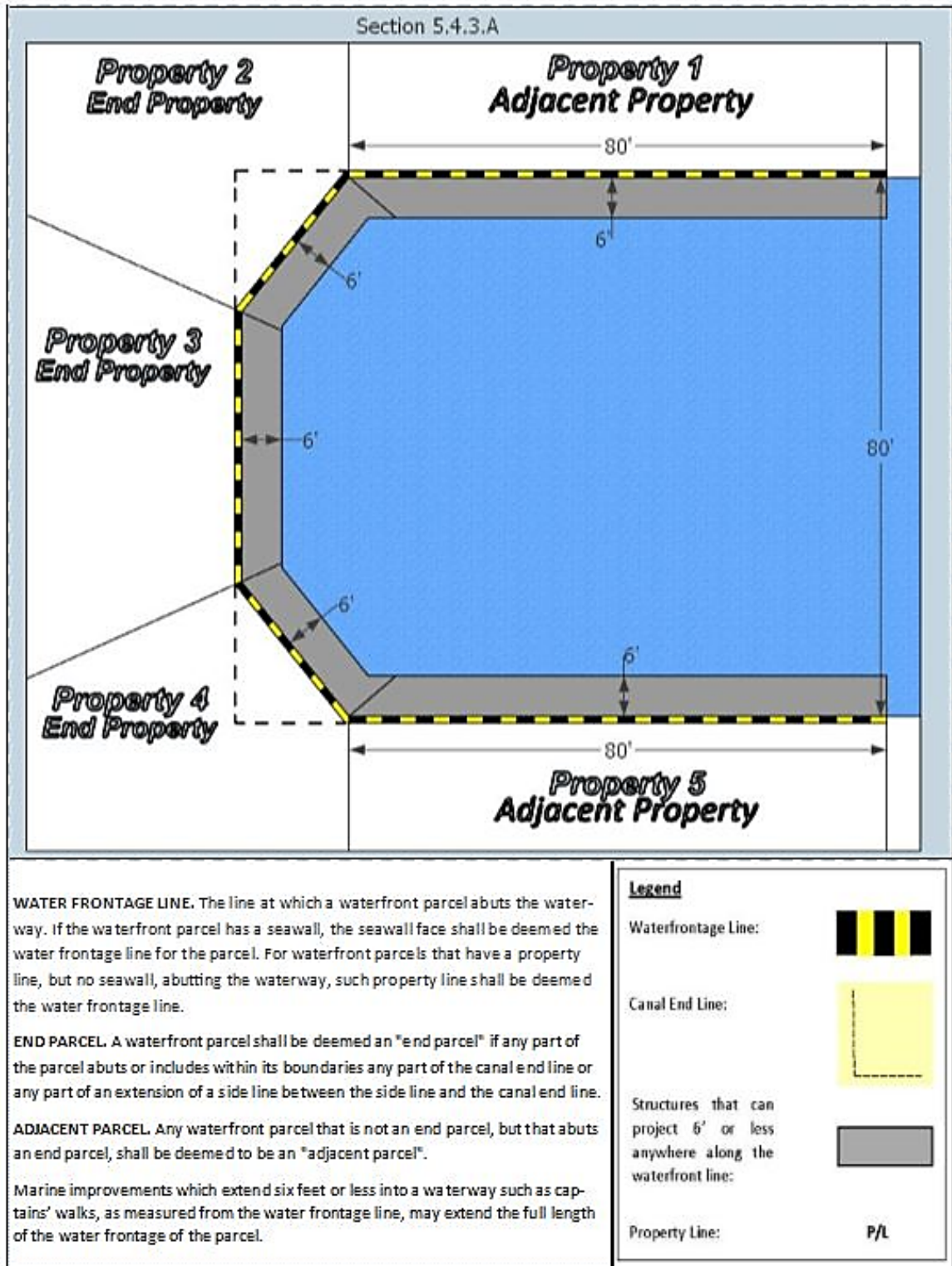
- 1746 manner as for end lake or basin parcels except that the side boundary of such marine
1747 improvement area (on the side where the corner of the lake or basin is located) shall be
1748 formed by a line bisecting the angle of such corner and extending to the offset line of the
1749 marine improvement area. See Diagram 5.4.3.K.
- 1750 iii. With respect to a corner parcel that is angled so that each end of its water frontage line
1751 is on a different side of the lake or basin or for a corner parcel with a V-shaped water
1752 frontage line, the marine improvement area configuration shall be determined as follows:
1753 First, calculate the waterway access ratio for each side of the lake or basin in the same
1754 manner as the waterway access ratio for a canal is determined. Then measure the
1755 distance from the center of each side of the lake or basin touched by the corner property
1756 to the end of the water frontage line, or to the offset point, if any, on such side of the lake
1757 or basin. Multiply each of the aforesaid distances by the waterway access ratio for the
1758 relative side of the lake or basin to obtain the length of the waterway line for each side of
1759 the lake or basin. Plot the waterway line from the center of the side of the lake or basin
1760 for which it was calculated to a point that is 30 feet waterward from the water frontage
1761 line. The offset line for a corner parcel marine improvement area is formed by connecting
1762 the two foregoing points. The marine improvement area for the corner parcel is that area
1763 enclosed by the parcel water frontage line, the offset line, and lines connecting the ends
1764 of the offset line to the corresponding offset points for the parcel, if any, or to the ends
1765 of the water frontage line. See Diagrams 5.4.3.L & M.
- 1766 iv. For adjacent lake or basin parcels, the marine improvement area shall be calculated in the
1767 same manner as that for end lake or basin parcels except as follows: With respect to an
1768 adjacent lake or basin parcel that abuts a corner parcel with 40 feet or less of water
1769 frontage line, the side boundary of the corner parcel marine improvement area (on the
1770 side where it abuts the adjacent parcel) shall form the side boundary of the adjacent
1771 parcel marine improvement area. With respect to an adjacent lake or basin parcel that
1772 abuts a corner parcel with more than 40 feet of water frontage line, the side boundary of
1773 the adjacent parcel (on the same side as the subject corner parcel) shall be determined
1774 by drawing a line from the end of the adjacent parcel water frontage line to the nearest
1775 terminus point of the subject corner parcel offset line and passing through the adjacent
1776 parcel offset line. The side boundary of the adjacent parcel shall be that portion of the
1777 aforesaid line between the end of the adjacent parcel water frontage line and such
1778 parcel's offset line. See Diagram 5.4.3.M
- 1779 v. Owners of waterfront parcels on a lake or basin aggrieved by the interpretation or
1780 application of this Section to such parcel due to the physical configuration of the
1781 particular lake or basin, then the Director may interpret and apply the provisions of this
1782 Section so as to alleviate the hardship resulting from the configuration of the lake or basin
1783 and so as to enable the waterfront parcel a reasonable marine improvement area.
- 1784
- 1785 6. In the event a significant portion of a waterway is not developable on one side due to ecological
1786 or other constraints, a marine improvement on the opposite side of the unnavigable portion
1787 shall be permitted to project into the waterway up to 50% of the calculated waterway width or
1788 40 feet, whichever is less, as measured from the water frontage line. See Diagram 5.4.3.N
1789

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- 1790 7. No marine vessel (or any part thereof) when secured in any way to a marine improvement shall
1791 extend beyond the ends of the water frontage of the parcel from which the marine
1792 improvement projects.
1793
- 1794 8. All properties adjacent to bridges shall be reviewed individually by the city to determine what,
1795 if any, marine improvement may project from that property. Factors to be considered in making
1796 this determination include, but are not limited to, public safety and the impact of a planned
1797 marine improvement on navigability.
1798
- 1799 B. Maximum dock surface area.
1800
- 1801 1. For parcels with more than 40 feet of waterfrontage, the maximum deck surface area
1802 coverage shall be calculated as follows: the linear feet of water frontage of the parcel minus
1803 20 feet times one-half times the linear feet of the maximum projection into the waterway
1804 (25% of the calculated width of the waterway or 40 feet, whichever is less).
1805
- 1806 2. For parcels with 40 feet or less of waterfrontage, the maximum deck surface area shall be
1807 calculated as follows: the linear feet of waterfrontage of the parcel times one-quarter times
1808 the linear feet of the maximum projection into the waterway (25% of the calculated width of
1809 the waterway or 40 feet, whichever is less).
1810

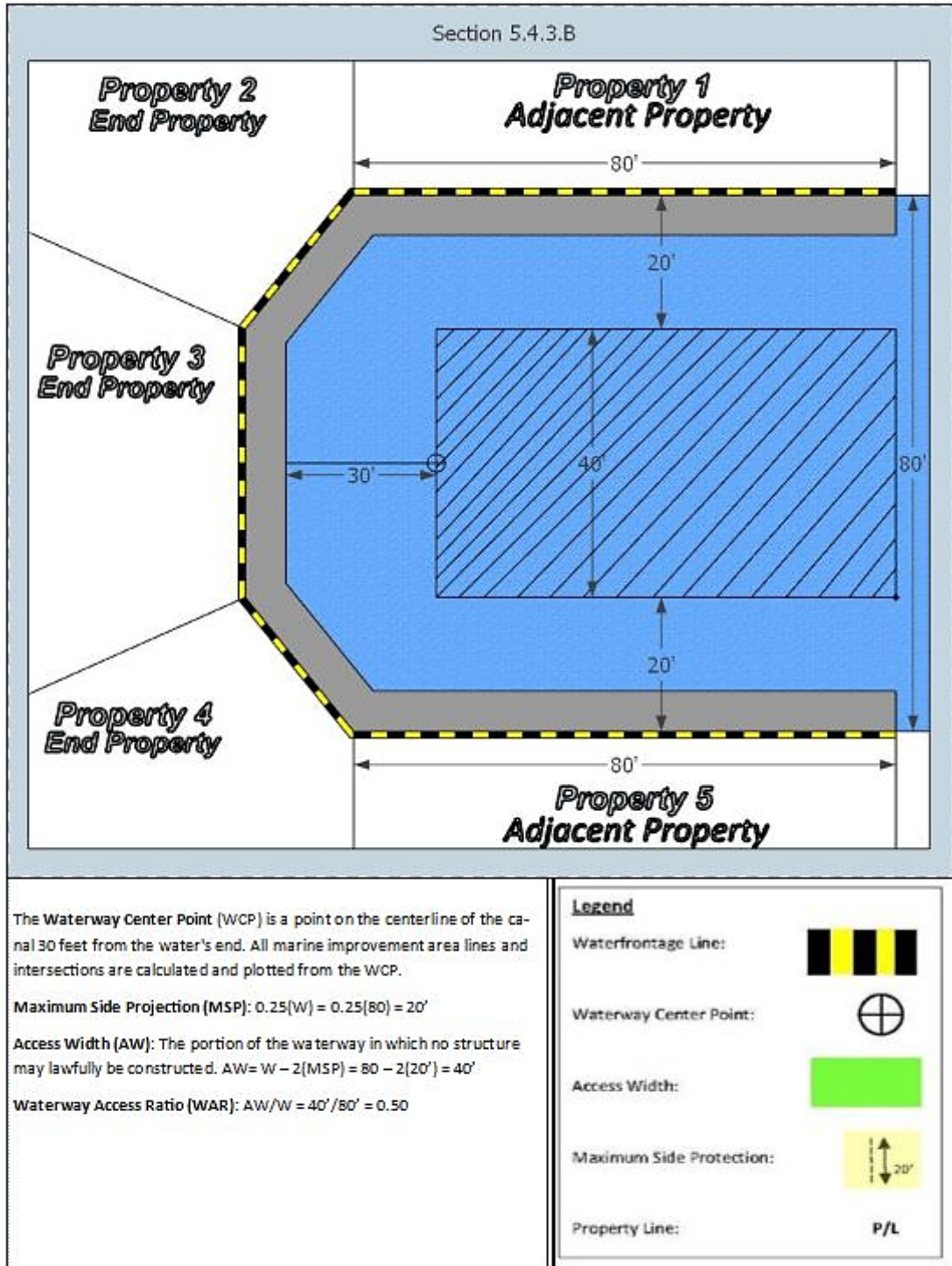
1811 **Section 5.4.3. Graphics**

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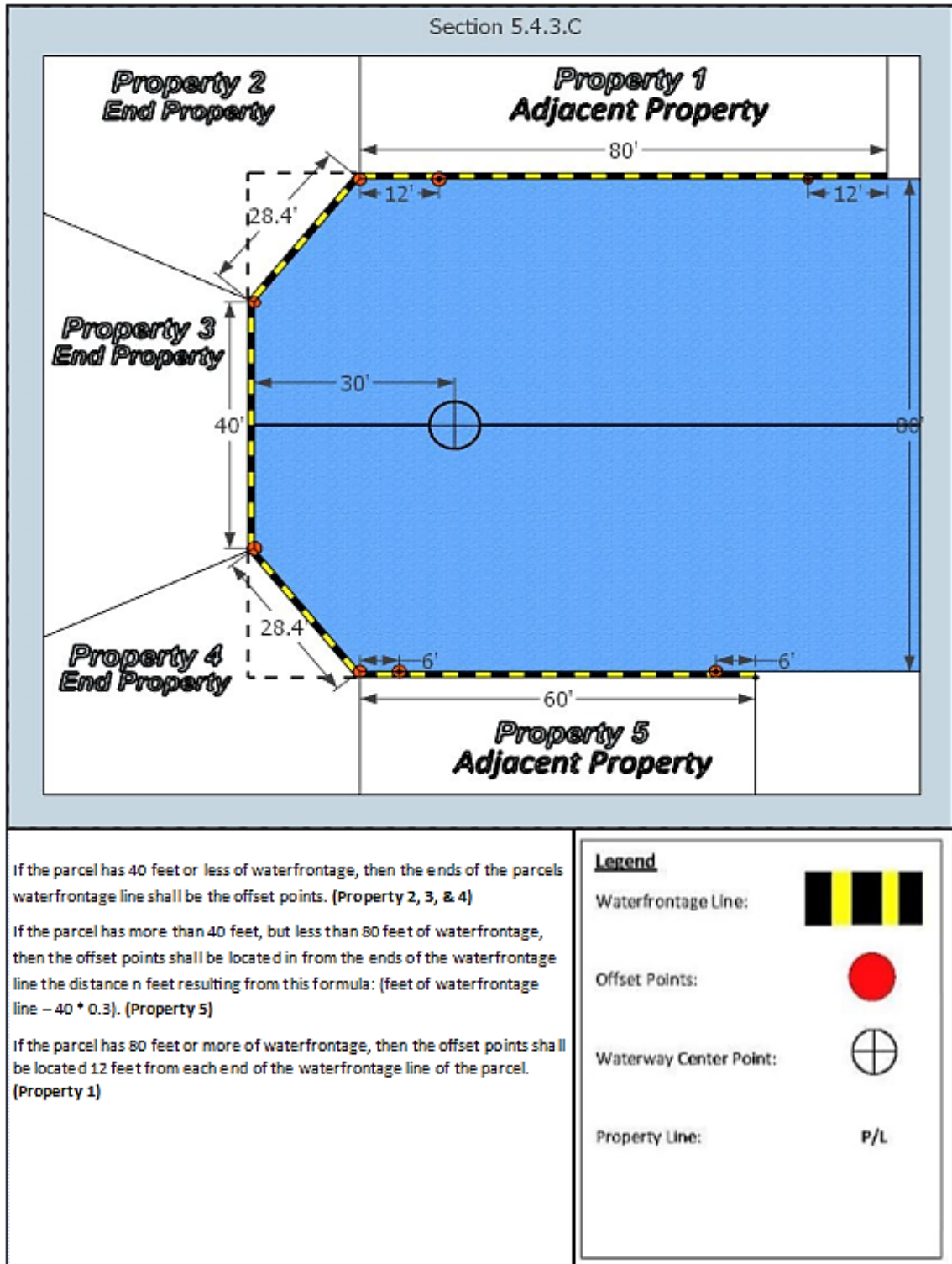
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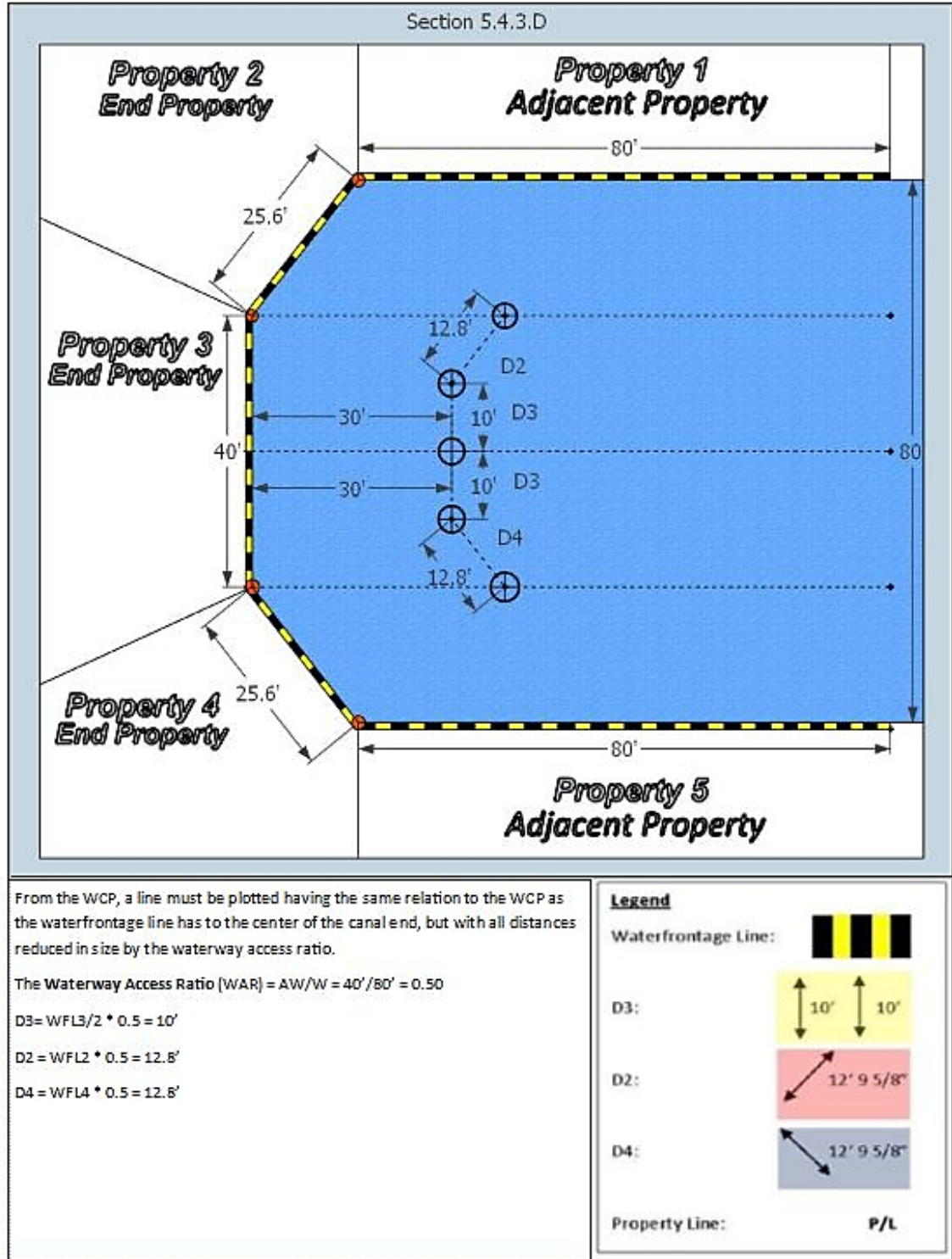
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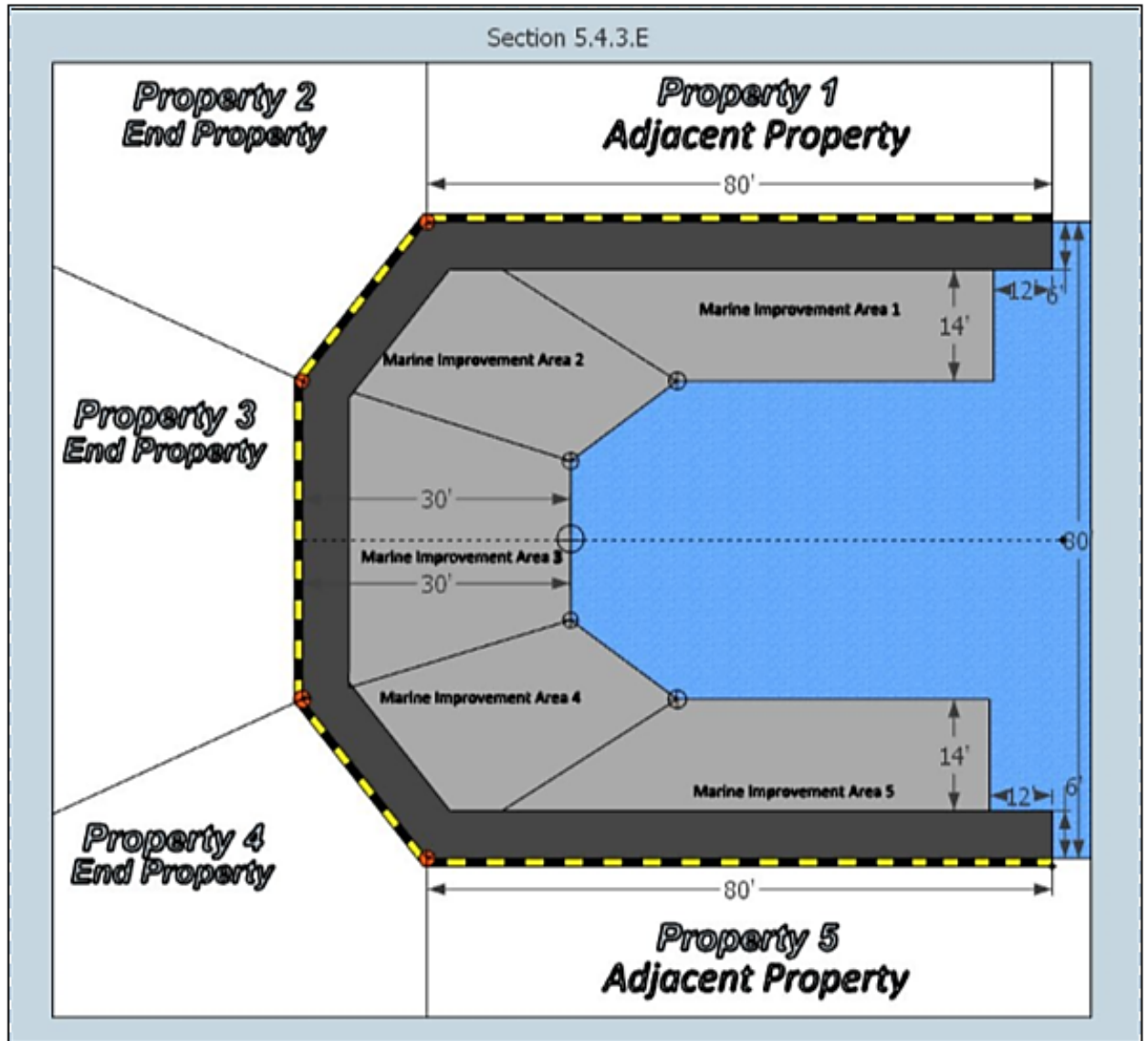
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Each parcel's marine improvement area is that area enclosed by the water frontage line, the offset line, and lines connecting the ends of the offset line to corresponding offset points.

Legend

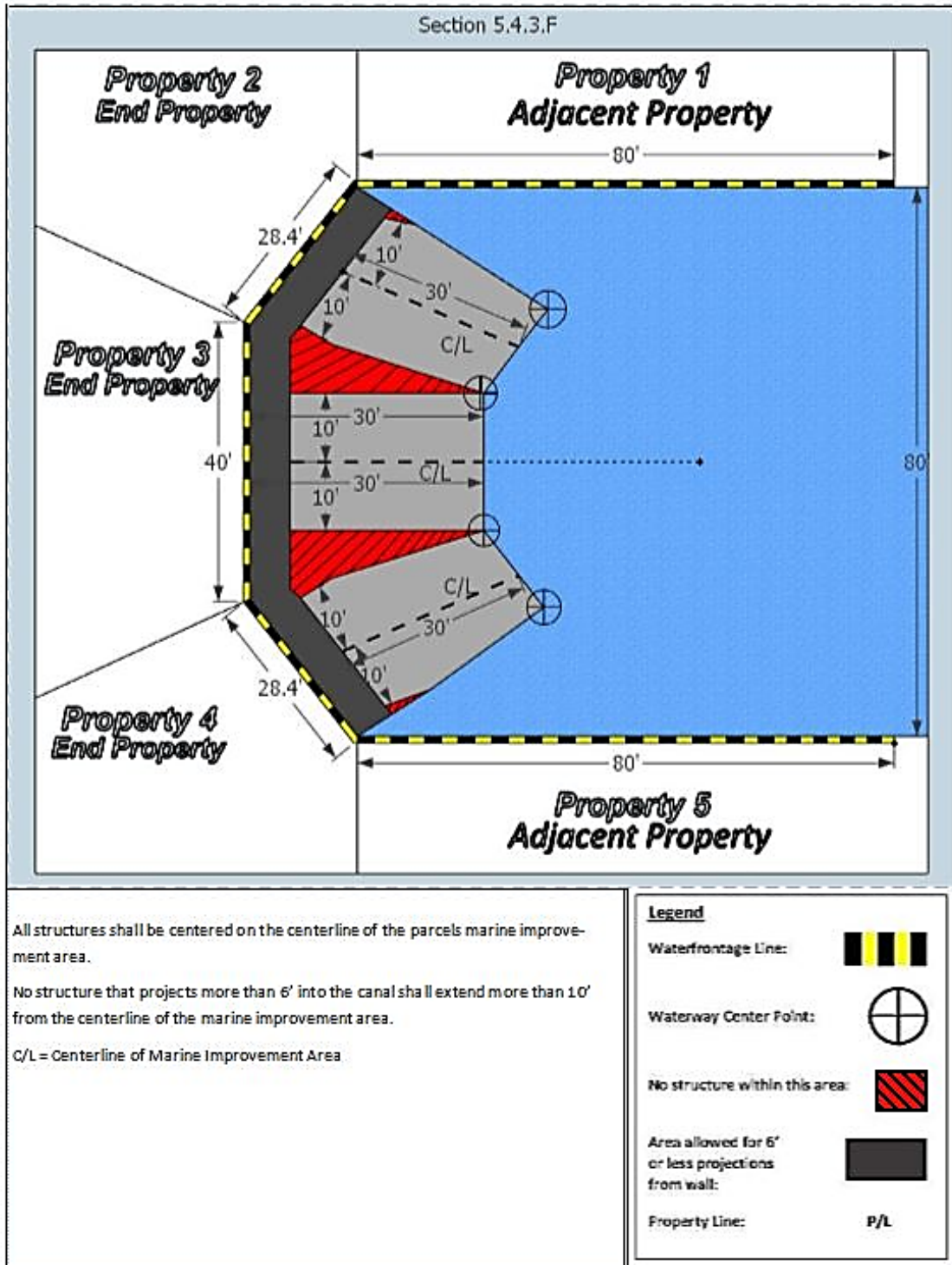
- Waterfrontage Line: 
- Waterway Center Point: 
- Structures that can project 6' or less anywhere along the waterfront: 
- Property Line: **P/L**

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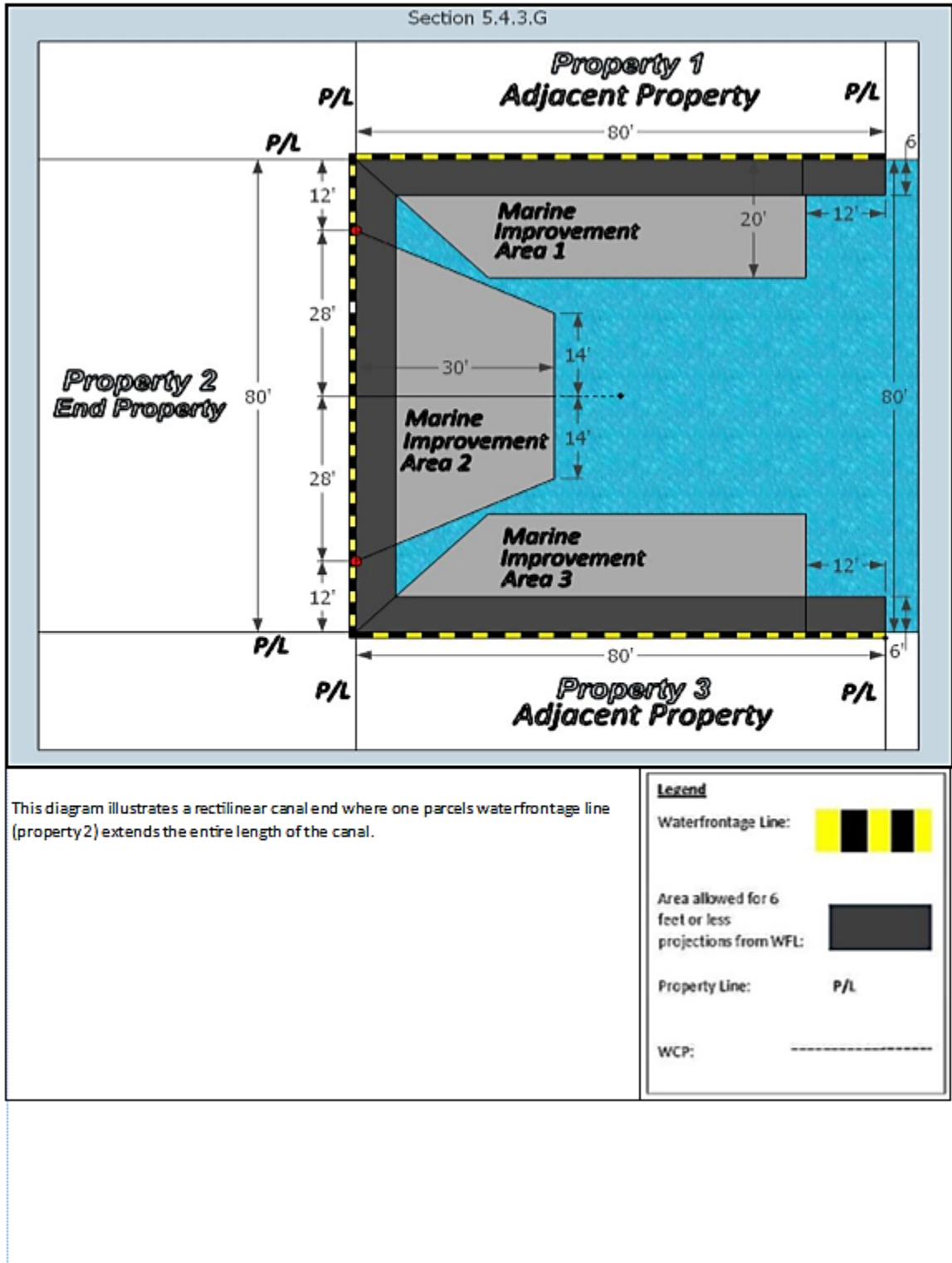
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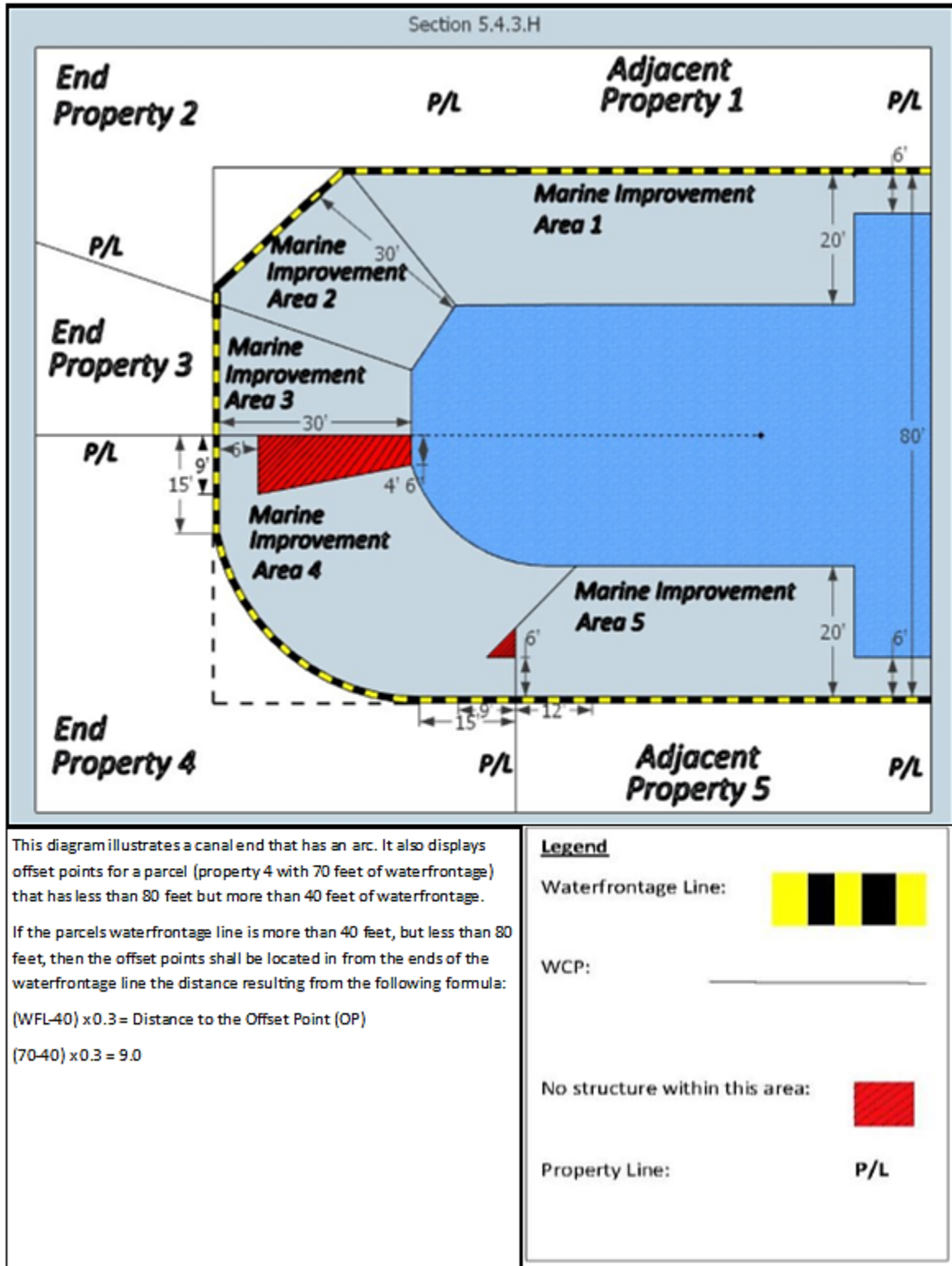
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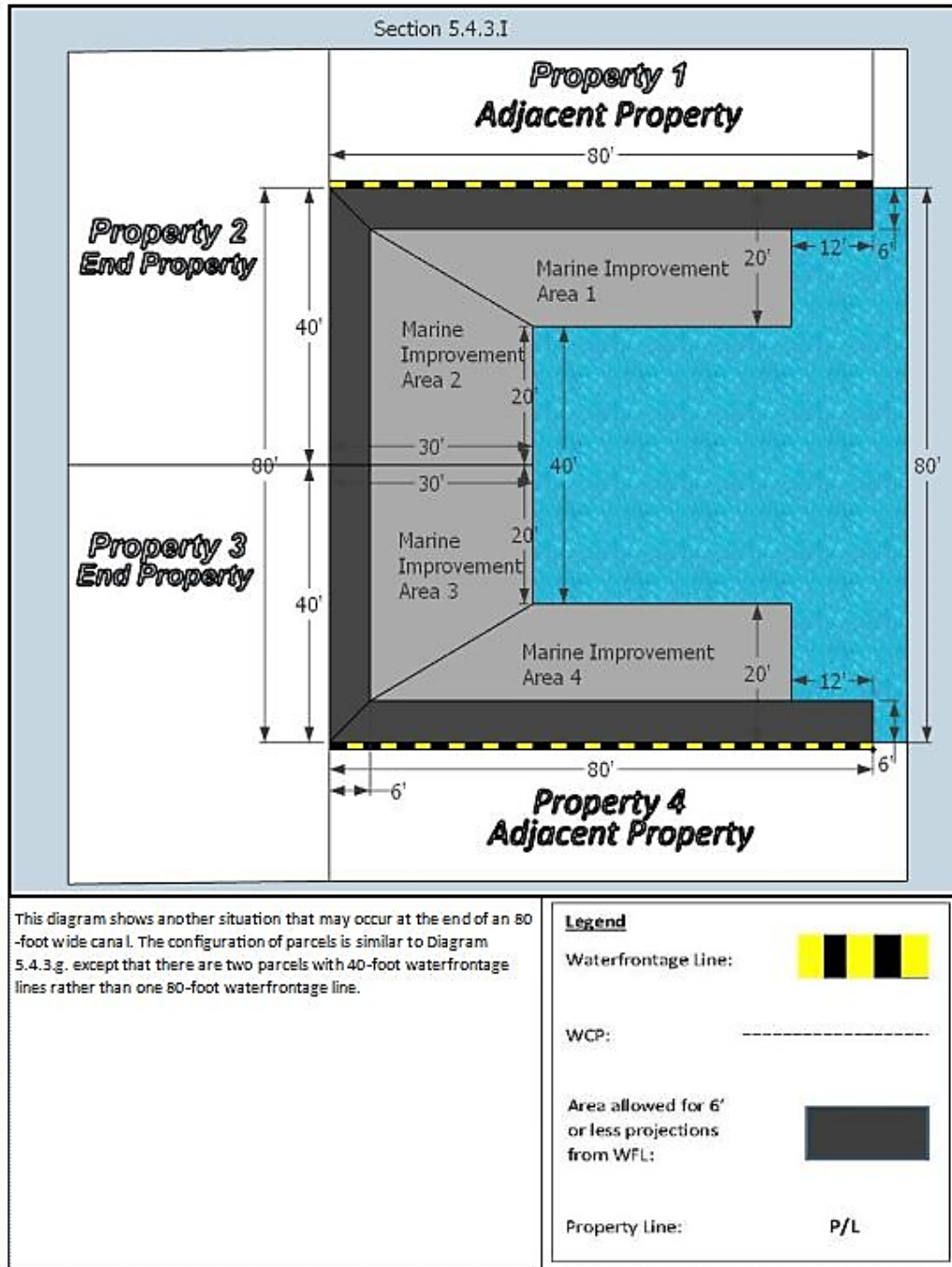
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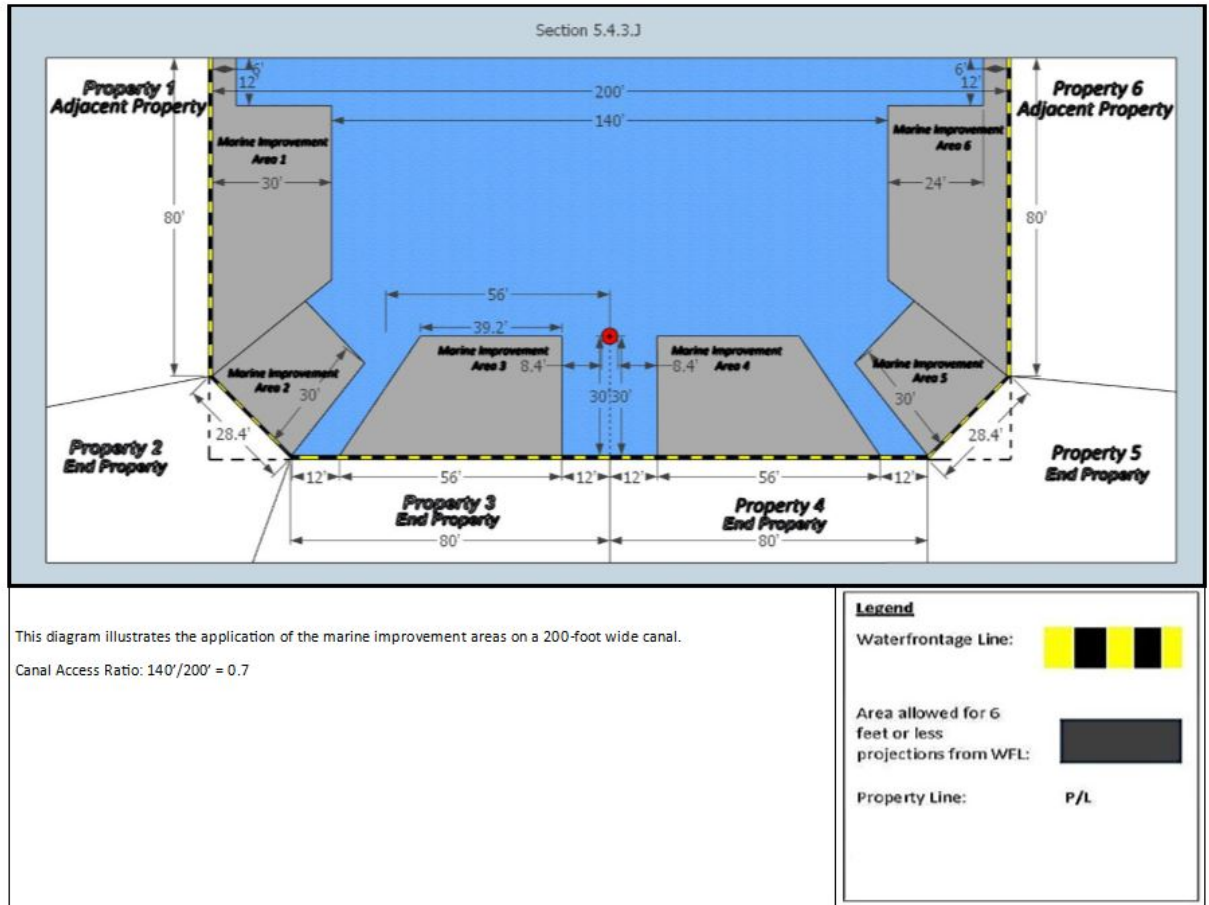
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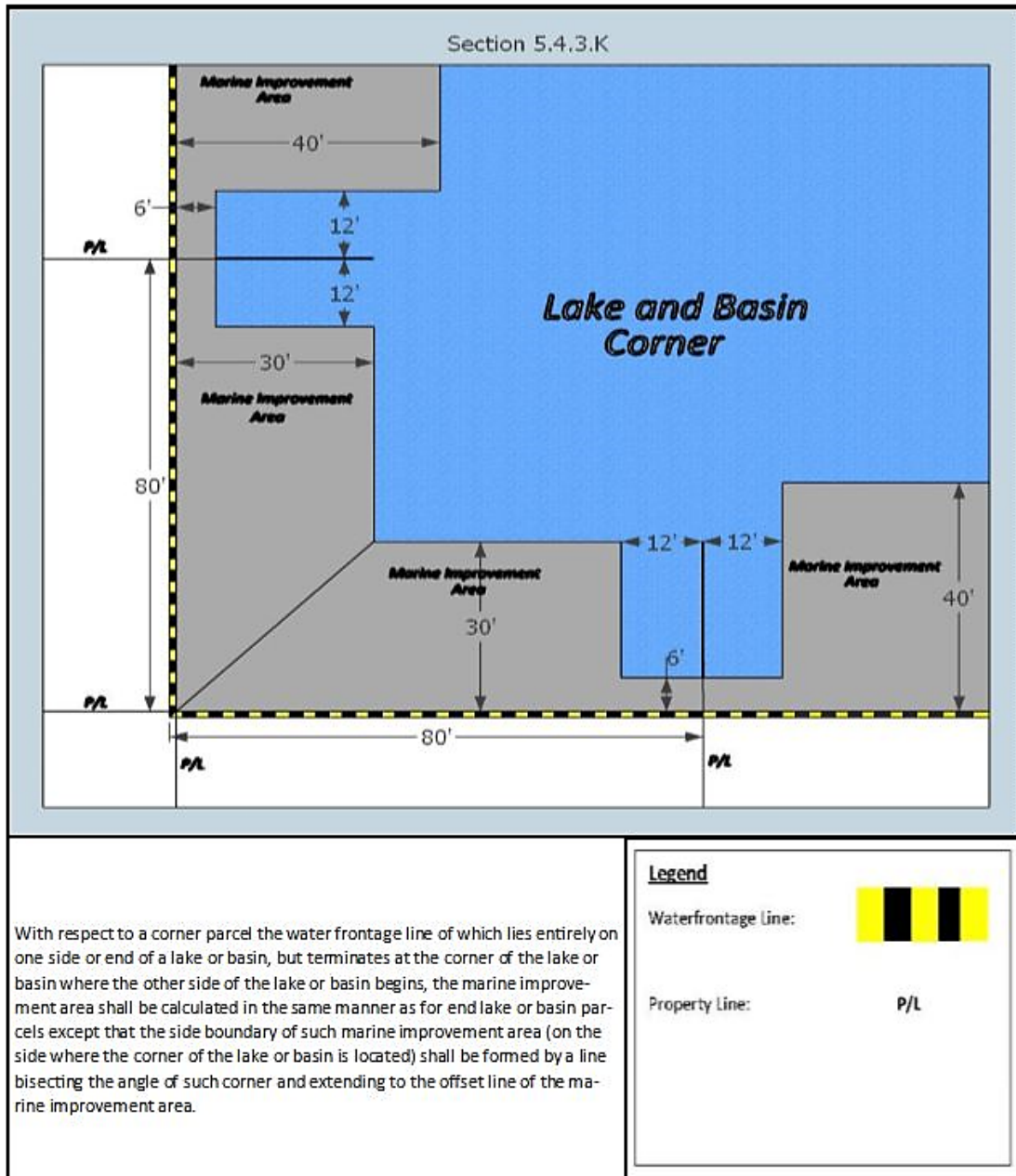
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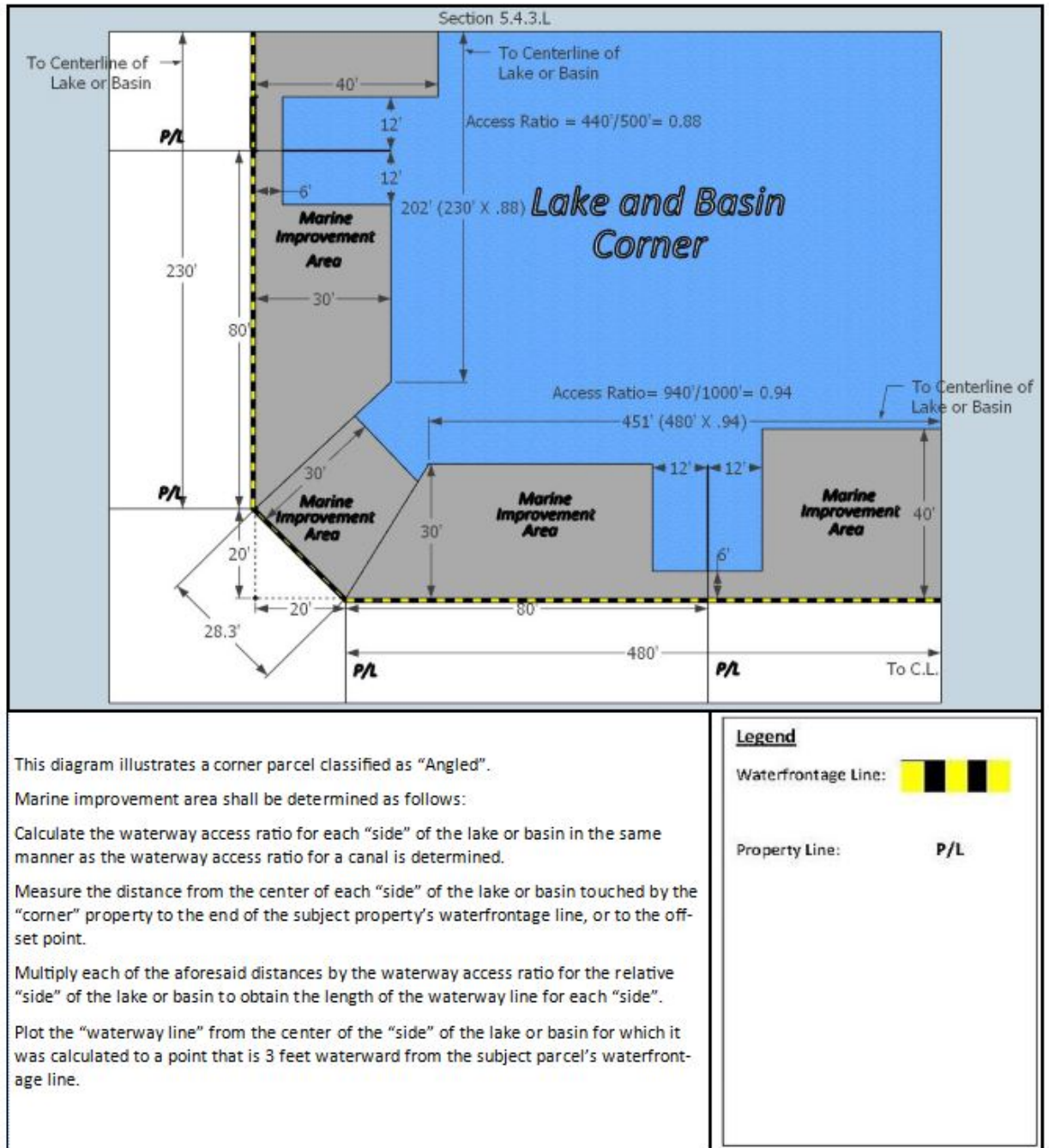
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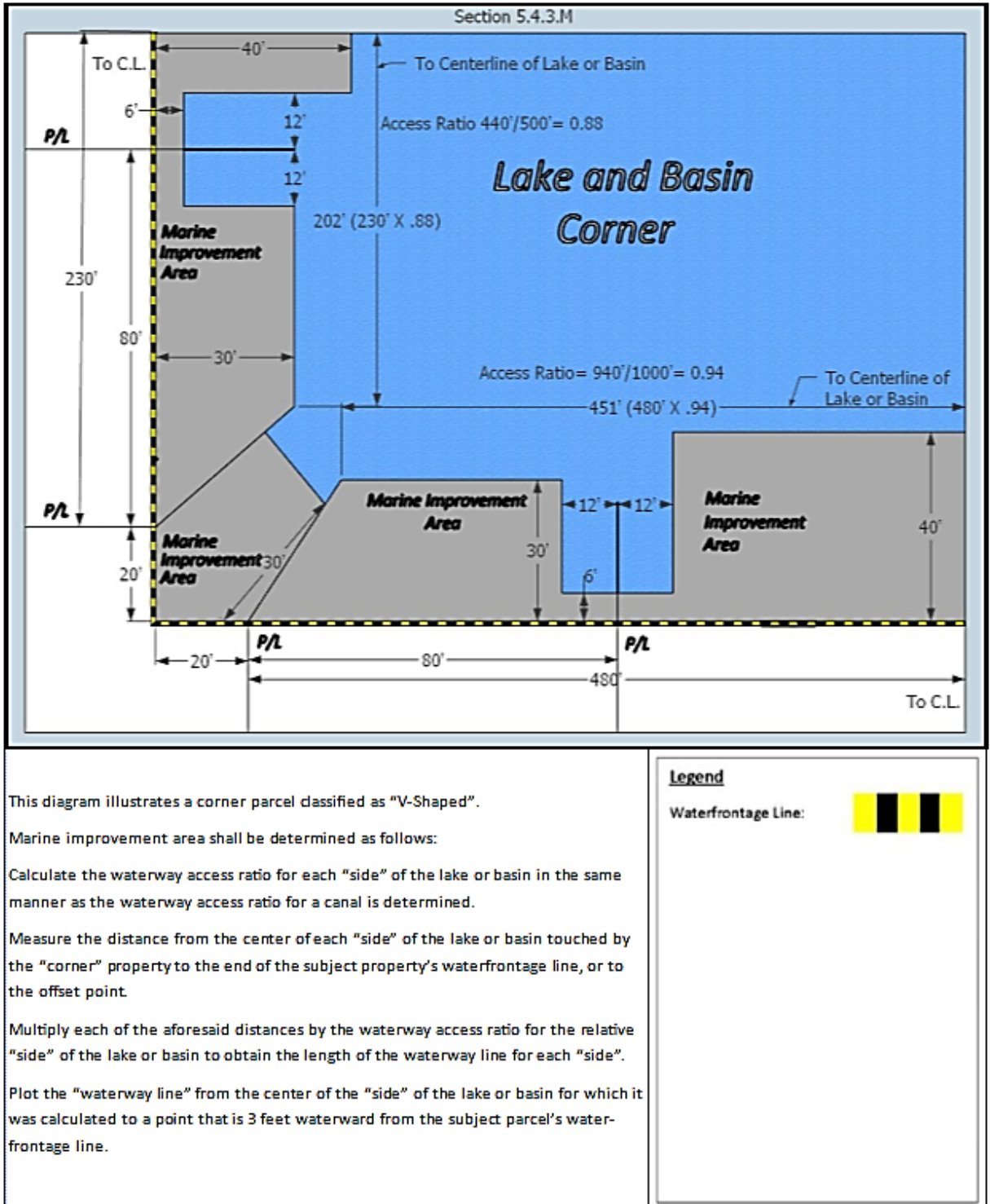
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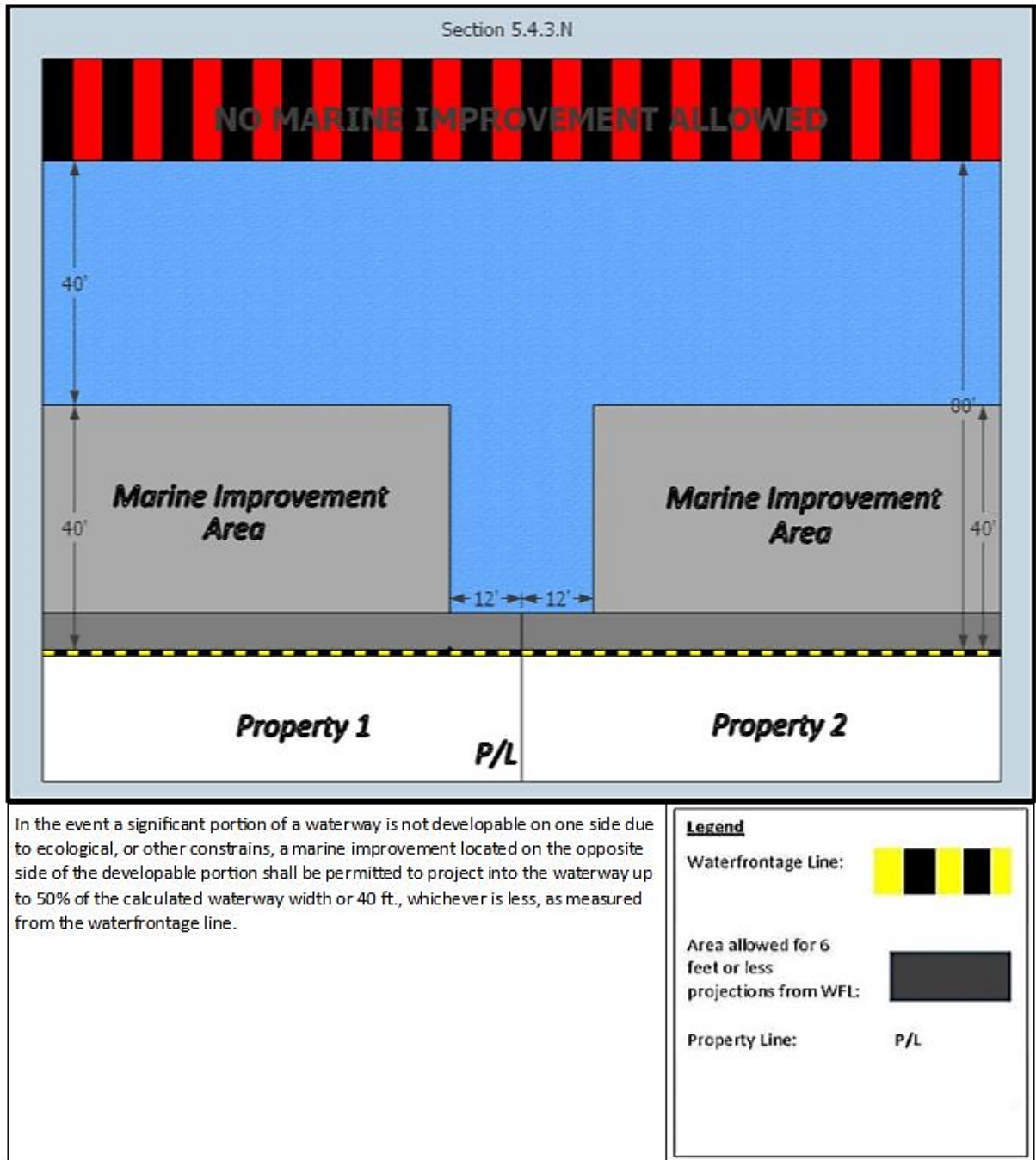
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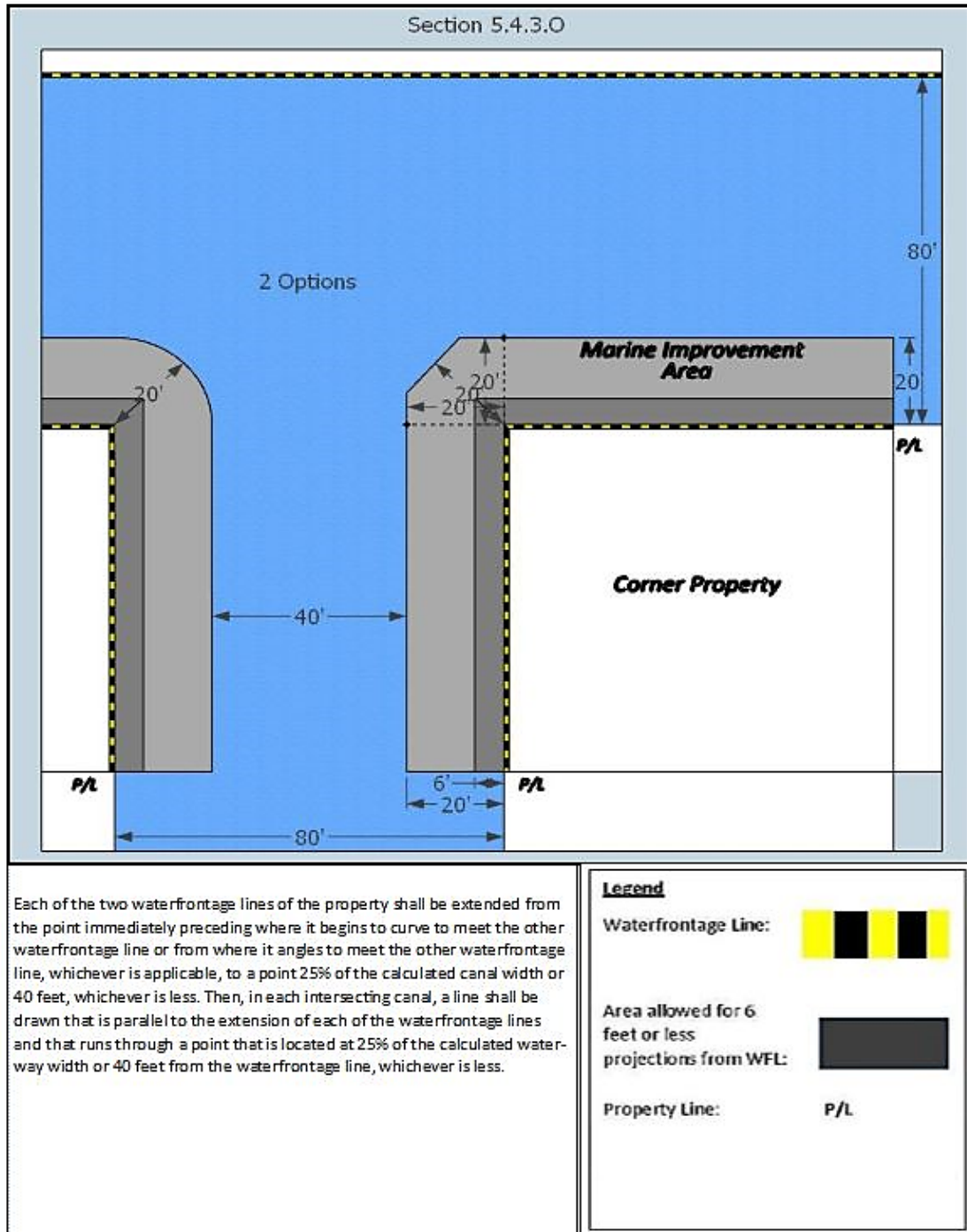
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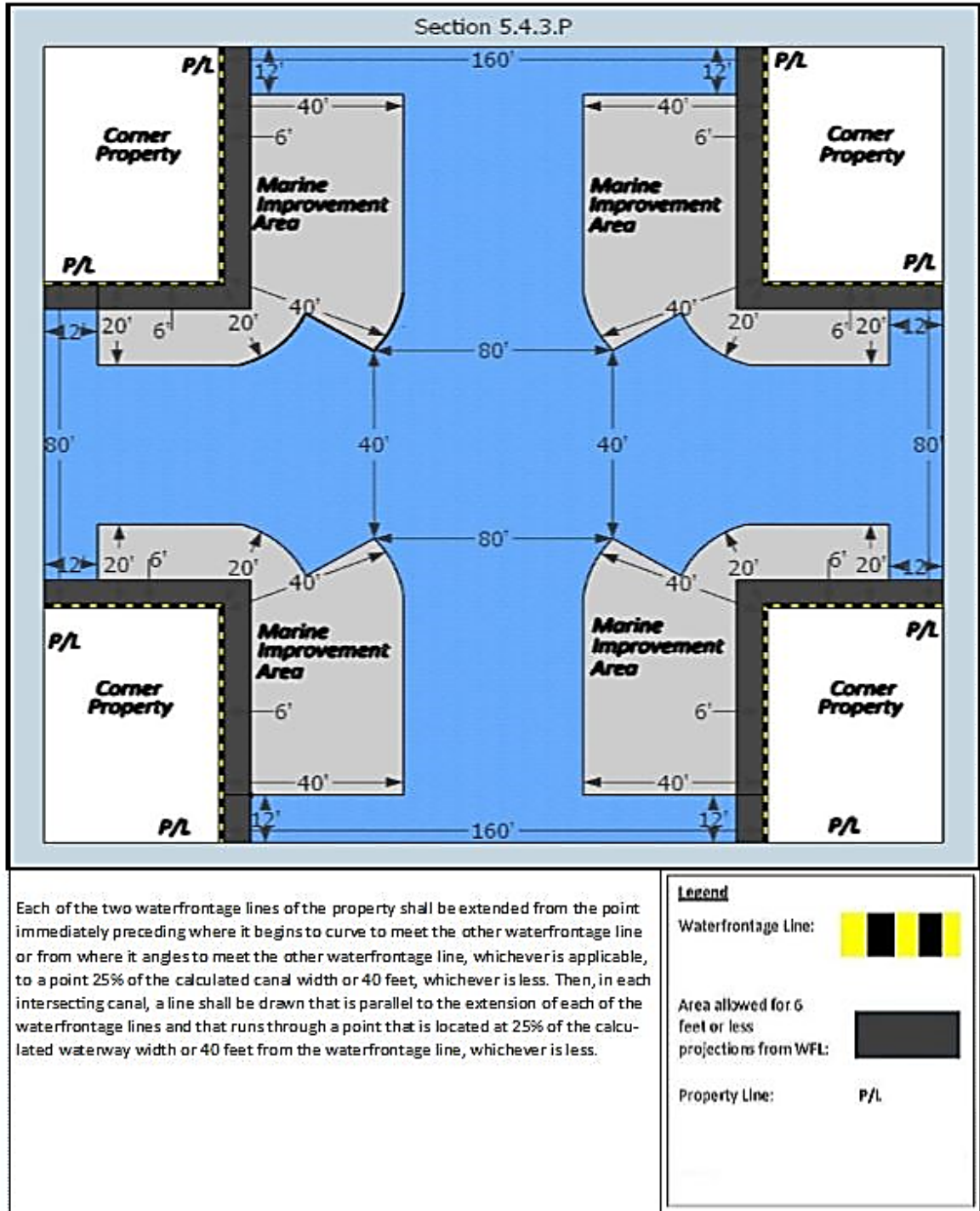
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1832 **Section 5.4.4. Joint Marine Improvements.**

1833
1834 Owners of adjoining waterfront parcels may adjust their abutting marine improvement area boundaries
1835 and offset requirements by entering into a written joint use agreement, provided the marine
1836 improvements are connected. A captain’s walk does not constitute a connection for requiring a joint
1837 marine improvement. All limitations regarding the maximum area of marine improvements shall apply to
1838 each property and the maximum marine improvement area allowed for each parcel shall not be combined
1839 or modified in any way so as to increase the maximum marine improvement area allowed for either parcel.
1840 Marine vessels or boat canopies when secured in any way to a joint marine improvement may extend
1841 beyond the end of one of the waterfront parcels involved at the point where such parcel abuts the other
1842 parcel sharing the marine improvement. However, no marine vessel (or any part thereof) shall extend
1843 beyond the outer ends of the water frontage of the two waterfront parcels except as provided in §
1844 5.4.3.A.8 The joint use agreement shall, at a minimum, comply with the following requirements.

- 1845
1846 A. The agreement shall contain the name(s) and current home address(es) of both property owners.
1847
1848 B. The agreement shall identify the waterway upon which the subject parcels are located and shall
1849 identify the waterfront parcels involved by legal description and by STRAP number. The agreement
1850 shall also include a signed and sealed survey of the subject adjoining parcels.
1851
1852 C. The agreement shall include a drawing of the proposed marine improvement(s) to be constructed,
1853 showing the design and dimensions of the marine improvement(s), and where the marine
1854 improvements will project from the parcels.
1855
1856 D. The agreement shall identify those areas that would be subject to access (ingress and egress)
1857 easements in conjunction with the joint marine improvement. Such easement(s) shall identify by legal
1858 description the property to which the easement attaches and shall be irrevocable except with the
1859 written consent of the city. The rights of each party with respect to such easement(s) shall run with
1860 the title to the respective parcels. A drawing identifying the easements shall also be included with the
1861 agreement.
1862
1863 E. The agreement shall identify the responsibilities of each of the parties for the construction and
1864 maintenance of the facilities. However, identification or division of responsibilities between parties in
1865 the agreement shall not affect the ability of the city to enforce any and all provisions of its Code of
1866 Ordinances or Land Development Codes against the property owner(s) of the joint marine
1867 improvement, jointly and severally.
1868
1869 F. The agreement shall state that the parties understand and agree to abide by all applicable federal,
1870 state, and local regulations pertaining to the construction, maintenance, and use of the facilities.
1871
1872 G. The agreement shall run with the land and be binding upon the parties, their successors, heirs, and
1873 assignees and it shall provide that it may not be rescinded or amended without the written consent
1874 of the city.
1875
1876 H. The parties to the agreement shall record the agreement, at their own expense, in the public records
1877 of Lee County. The agreement shall satisfy all requirements for recording, including those contained

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1878 in the Florida Statutes. No permit for the construction of a joint marine improvement or for the
1879 erection or installation of a boat canopy on a joint marine improvement shall be issued by the city
1880 until the parties have first provided to the city a copy of the fully executed agreement and evidence
1881 of recording that is satisfactory to the city, in its sole discretion.
1882

1883 I. Prior to execution and recording of the agreement, the parties shall submit a draft of the proposed
1884 agreement to the Community Development Director for review and comment.
1885

1886 **Section. 5.4.5. Quays and mooring piles.**
1887

1888 A. A seawall may be altered to accommodate the mooring of a vessel if it is determined that the seawall
1889 is structurally sufficient for that purpose.
1890

1891 B. Mooring piles may be installed directly adjacent to the seawall to allow for the mooring of watercrafts
1892 without a dock.
1893

1894 C. Pilings shall not be higher than eight feet above mean high water.
1895

1896 D. Any watercraft moored at a quay or a pile may not be any closer than 10 feet to the adjacent property
1897 line.
1898

1899 **Section. 5.4.6. Davits, watercraft lifts, and floating docks.**
1900

1901 A. Lifts: An electrical permit is required to install a lift within an existing u-shaped dock.
1902

1903 B. Davits:
1904

1905 1. The minimum side setback for davit installation shall be five feet from the side lot line to the
1906 center of the davit base.
1907

1908 2. Davits, including swinging lifts when extended over the water, may not extend further than 25%
1909 into the waterway or 30 feet whichever is less.
1910

1911 3. Overhead hoists, davits, or machinery shall not exceed eight feet above mean high water when
1912 not in use.
1913

1914 C. Floating docks and lifts:
1915

1916 1. For dimensional requirements refer to Section 5.4.3. above.
1917

1918 2. A floating dock or lift must be anchored in place so as not to impede the use of neighboring
1919 waterfront property.
1920

1921 **Section. 5.4.7. Boathouses and canopies.**
1922

1923 A. Boathouses are prohibited.

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- B. No overhead structure shall be constructed on any dock other than an approved boat canopy or sun shelter. Sun shelters shall be erected or installed on docks only in accordance with Section 5.2.10. of this article. Boat canopies are permitted to be erected or installed on marine improvements for the purpose of protecting a vessel from the elements only in accordance with the following:
1. The support(s) and frame(s) of a boat canopy shall be constructed of a corrosion-resistant material. Boat canopy supports shall be arranged in an open design so as to allow visibility through the sides with openings no smaller than four feet in any dimension. No boat canopy support or frame shall be of a solid or opaque design so as to create a wall. No boat canopy shall have wooden framing or supports. No shutter roll-up design shall be permitted.
 2. The canopy shall be fabric or a material which can be rolled and folded without damage. The canopy shall be attached to the boat canopy supports or frames in such a manner that it detaches in a wind load of 70 mph or greater.
 3. The boat canopy shall not extend horizontally more than 30 inches over or beyond any dock to which the canopy is attached, -except to the rear of a boat slip where it may extend up to 48 inches past the end of the structure. Canopies attached to marine improvements that are built to the maximum projection, may extend up to 30 inches beyond the structure.
 4. No boat canopy shall exceed 40 feet in length or 18 feet in width.
 5. Boat canopies, their supports, and frames shall be maintained in good repair at all times. No canopy, canopy support, or frame shall be allowed to fall into disrepair or to become dilapidated, structurally dangerous, or unsafe. In the event a boat canopy, canopy support, or frame falls into disrepair, it shall be the responsibility of the owner of the waterfront parcel to remove the offending structure.
 6. Only one canopy may be permitted per parcel.
 7. No boat canopy, when measured at its highest point, shall extend more than 14 feet above the seawall cap, or if no seawall exists, above the decking of the marine improvement.

Section. 5.4.8. Bulkheads, seawalls, and retaining walls.

- A. Mandatory seawalls required; saline or brackish water. All parcels having frontage or direct and immediate access to frontage on any saline, brackish, or tidally influenced canal or other body of water within or bordering the boundaries of the city is required to have a seawall bulkheading the entire frontage exposed to contact with the water.
- B. Seawalls; fresh or non-saline water. All parcels having frontage or direct and immediate access to frontage on any freshwater or non-tidal canal or other body of water within or bordering the boundaries of the city are required to have a seawall bulkheading the entire frontage exposed to contact with the water or alternatives to vertical bulkheads as specified in the City of Cape Coral Engineering Design Standards. Seawalls or their alternative shall be structurally maintained at owner's expense so as not to cause a nuisance or hazard to safety. The provisions of this Section shall not apply

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1970 to any parcels adjacent to or contiguous with any drainage ditch, canal, pond, or lake within any public
1971 or private golf course or public park.

1972
1973 C. Bulkheads under SFWMD jurisdiction. The construction of bulkheads, in association with water
1974 management system lake construction under jurisdiction of SFWMD, shall be in compliance with
1975 SFWMD criteria.

1976
1977 Single-family residential and duplex parcels. Parcels bounded by bulkheads shall construct an infiltration
1978 trench adjacent to and along the entire length of the bulkhead.

1979
1980 **CHAPTER 5. LANDSCAPING**

1981
1982 **Section 5.5.1. Purpose and intent.**

1983
1984 This section is established to provide general landscape regulations, to improve the appearance of certain
1985 setback and yard areas, including off-street vehicular parking, open lot sales and service areas, and to
1986 protect and preserve the appearance, character, and value of the surrounding neighborhoods. The
1987 principles of the Florida-Friendly Landscaping Program with regard to planning and design, soil
1988 improvement, efficient irrigation, limited turf areas, mulches, drought tolerant plants, and appropriate
1989 maintenance are the basis for the principles in this section and should be used as guidance in all new
1990 construction and landscape renovations so as to provide the most green with the least water and create
1991 a landscape that can survive largely undamaged in case of short term water restrictions.

1992
1993 **Section 5.5.2. Florida-Friendly Landscaping Program principles.**

1994
1995 The city strongly encourages adherence to the Florida-Friendly Landscaping Program that includes the
1996 following principles:

1997
1998 A. Right plant, right place. Plants selected to suit a specific site will require minimal amounts of water,
1999 fertilizer and pesticides.

2000
2001 B. Water efficiently. Irrigate only when lawn and landscape need water.

2002
2003 C. Fertilize appropriately. Less is often better. Over-use of fertilizer can be hazardous to your yard and
2004 the environment.

2005
2006 D. Mulch. Maintaining a layer of mulch will help retain soil moisture, prevent erosion and suppress
2007 weeds.

2008
2009 E. Attract wildlife. Plants in private yards that provide food, water and shelter can conserve Florida's
2010 diverse wildlife.

2011
2012 F. Manage yard pests responsibly. Unwise use of pesticides can harm people, pets, beneficial organisms,
2013 and the environment.

2014

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- 2015 G. Recycle yard waste. Grass clippings, leaves, and yard trimmings recycled onsite provide nutrients to
2016 the soil and reduce waste disposal.
2017
2018 H. Reduce stormwater runoff. Water running off from private yards can carry pollutants such as soil,
2019 debris, fertilizer, and pesticides that can adversely impact water quality.
2020
2021 I. Protect the waterfront. Waterfront property is very fragile and should be carefully protected to
2022 maintain freshwater and marine ecosystems.
2023

2024 **Section 5.5.3. Applicability.**

2025
2026 Except as provided under Section 5.5.4, Exemption, the landscape standards of this section shall apply to
2027 all new construction of single-family homes and duplexes, and to all other new construction requiring
2028 ~~site plan~~SDP review per under Article 3. Additionally, all landscape standards of this section shall apply
2029 to amendments to a site plan that would have the effect of:

- 2030
2031 A. Increasing the total square footage of any one building or the total square footage of all buildings on
2032 a site by more than 20%;
2033
2034 B. Increasing the number of buildings; or
2035
2036 C. Adding any new or expanding any existing off-street parking area.
2037
2038 D. The existing portion of an amended or expanded project which is demonstrated to be completely
2039 and fully in compliance with an approved landscape plan at the time of application is not required to
2040 be modified to comply with this section.
2041
2042 E. All areas of an existing project affected by an amendment or expansion or those areas that are not
2043 in full compliance with an approved landscape plan are required to comply with this section.
2044
2045 ~~D~~F. No certificate of occupancy or certificate of completion shall be issued until the Department of
2046 Community Development (DCD) has determined that the applicant has complied with all the
2047 provisions of this section and has approved the finished landscape product.
2048

2049 **Section 5.5.4. Exemption.**

2050
2051 These regulations do not apply to projects located where the City Council has established specific
2052 landscape standards for a unique area of the city; unless the specific landscape standards otherwise
2053 expressly state their applicability.
2054

2055 **Section 5.5.5. Conflicts.**

2056
2057 If any of the landscape standards of this section conflict with any other provision of the City of Cape Coral
2058 Code of Ordinances or the LDC the provision that establishes the more specific standard governs. If neither
2059 conflicting provision establishes a more specific standard, then the more stringent provision governs
2060 unless otherwise expressly provided.

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Section 5.5.6. Landscape plans.

- A. Landscape plan required. A landscape plan that meets the requirements below shall be provided as required by Article 3.

- B. Landscape plan standards. Landscape plans for all projects that require a landscape plan, including Site Development Plans and Subdivision Construction Plans shall be signed and sealed by a landscape architect, or other licensed professional authorized pursuant to F.S. Chapter 481, Part II, as amended. All landscape plans shall meet the following requirements and contain the following information:
 - 1. Scale of not less than one-inch equals 30 feet. This requirement shall not preclude the inclusion of a smaller-scaled drawing such as a key map for the purpose of establishing the orientation of landscape plans for large sites that, because of their size, cannot be displayed on a single sheet.
 - 2. Zoning district and future land use classification for the subject parcel and all abutting parcels.
 - 3. The approximate location, quantity, diameter/caliper, botanical and common name, and native status of all heritage trees and other existing trees with a caliper of two inches or greater, and whether they are proposed to be preserved or removed. Trees to be removed, if any, shall be indicated on a separate sheet.
 - 4. Location, quantity, spacing, diameter/caliper, overall height (at time of planting) of proposed trees, palm trees, botanical and common name, and native status. Any existing trees located within the street right-of-way, between the closest outside edge of pavement and the subject property shall be shown.
 - 5. Location, quantity, spacing, container size, overall height (at time of planting) of proposed shrubs and groundcover, botanical and common name, and native status.
 - 6. Types, amounts, and placement of other hardscape materials such as berms and walls required by this section or Section 5.5.13, or both.
 - 7. A statement or plan describing compliance with the irrigation standards of these regulations.
 - 8. Location and type of existing and proposed utility lines, easements, electrical transformer boxes, fire hydrants or fire appliances, sidewalks, parking spaces, light poles, and stop signs.
 - 9. Indication of existing and proposed grades if existing vegetation is to be retained on site.
 - 10. Existing or proposed onsite curbing.
 - 11. Calculations, notes, and installation details indicating how the proposed landscaping will be in compliance with requirements of this section.

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2106 12. Vegetation protection barricades to be used during construction, for all trees to be preserved.

2107

2108 13. Safe sight distance triangles.

2109

2110 14. Locations of proposed and existing off-street parking area lighting, if applicable.

2111

2112 15. A note that all existing prohibited vegetation shall be removed.

2113

2114 **Section 5.5.7. Planting near utility infrastructure.**

2115

2116 Landscaping shall not interfere with or obstruct any existing or proposed pad-mounted transformer,
2117 overhead or underground utility line, utility service, fire hydrant, or fire appurtenance.

2118

2119 A. Overhead power lines. Canopy tree branches or palm tree fronds within ten feet of existing overhead
2120 transmission or distribution lines, measured radially from the line, shall be subject to trimming or
2121 removal by the power company as necessary to maintain public overhead utilities in accordance with
2122 the National Electric Safety Code (NESC). No canopy trees or palm trees shall be planted closer to an
2123 overhead transmission or distribution line than as specified by the Minimum Separation Distance
2124 Between Center of Trees and Overhead Transmission or Distribution Lines indicated in Table 1. In
2125 order to avoid conflicts with power lines and avoid the need for removal or pruning that would harm
2126 or distort their natural shape, it is recommended that no canopy trees or palm trees should be planted
2127 closer to an overhead transmission or distribution line than as specified by the Recommended
2128 Separation Distance Between Trees and Overhead Transmission or Distribution Lines indicated in
2129 Table 1. The separation between a tree and an overhead transmission or distribution line shall be the
2130 distance from the center of the tree at ground level to the closest point on the ground that is within
2131 the vertical plane of an overhead transmission or distribution line at rest. A species of canopy tree or
2132 palm tree that is not listed in Tables 5.5.7.A and 5.5.7.B shall not be planted within 20 feet of existing
2133 overhead transmission or distribution lines without the prior written consent of the Department of
2134 Community Development Director.

2135

Table 5.5.7.A: Minimum Separation Distance Between Palm Trees and Overhead Transmission or Distribution Lines			
PALMS			
Common Name	Botanical Name	Minimum Separation Distance (in feet) Between Center of Trees and Overhead Transmission or Distribution Lines	Recommended Separation Distance (in feet) Between Center of Trees and Overhead Transmission and Distribution Lines
Allexandra Palm	Archontophoenix alexandrae	10	13
Areca Palm	Chrysalidocarpus lutescens (Dypsis lutescens)	No minimum distance	No minimum distance
Bamboo Palm	Chamedorea spp.	No minimum distance	No minimum distance

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Cabbage Palm (Sabal Palm)	Sabal palmetto	8	13
Canary Island Date Palm	Phoenix canariensis	15	21
Chinese Fan Palm	Livistonia chinensis	8	13
Christmas Palm	Adonidia merrillii (Veitchii merrillii)	No minimum distance	No minimum distance
Coconut Palm	Cocos nucifera	10	21
Date Palm	Phoenix dactylifera	10	21
Dwarf Palmetto	Sabal minor	No minimum distance	No minimum distance
European Fan Palm	Chamaerops humilis	No minimum distance	No minimum distance
Fishtale Palm	Caryota mitis	8	14
Foxtail Palm	Wodyetia bifurcata	8	15
Lady Palm	Rhapis excelsa	No minimum distance	No minimum distance
Macarthur Palm	Ptychosperma macarthurii	8	14
Majesty Palm	Ravenea glauca	No minimum distance	No minimum distance
Needle Palm	Rhapidophyllum hystrix	No minimum distance	No minimum distance
Paurotis Palm (Everglades Palm) (may grow to 25 feet)	Acoelorrhaphe wrightii	No minimum distance	13
Pindo Palm	Butia capitata	No minimum distance	No minimum distance
Pygmy Date Palm	Phoenix roebellini	No minimum distance	No minimum distance
Queen Palm	Syagrus romanzoffianum	9	18
Royal Palm	Roystonea spp.	10	21
Saw Palmetto	Serenoa repens	No minimum distance	No minimum distance
Senegal Island Date Palm (Reclinata Palm)	Phoenix reclinata	8	16
Silver Palm	Coccothrinax argentata	No minimum distance	No minimum distance
Solitaire (Alexander) Palm	Ptychosperma elegans	8	14
Thatch Palm	Thrinax spp.	No minimum distance	No minimum distance
Washingtonia Palm (Mexican Washington Palm)	Washingtonia robusta	8	13

2136

Table 5.5.7.B: Minimum Separation Distance Between Canopy Trees and Overhead Transmission or Distribution Lines			
CANOPY			
Common Name	Botanical Name	Minimum Separation Distance (in feet) Between Center of Trees	Recommended Separation Distance (in feet) Between Center of

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		and Overhead Transmission or Distribution Lines	Trees and Overhead Transmission and Distribution Lines
Bald Cypress	Taxodium distichum	15	30
Black Olive (also see Shady Lady Black Olive)	Bucida buceras	20	30
Cassia fistula	Cassia fistula	15	30
Gumbo Limbo	Bursera simaruba	15	30
Jacaranda	Jacaranda mimosfolia	20	30
Laurel Oak	Quercus laurifolia	15	30
Live Oak	Quercus virginiana	20	30
Mahogany	Swietenia macrophylla	15	30
Pigeon Plum	Cocoloba diversifolia	8	10
Slash Pine	Pinus elliotii	15	30
Southern Magnolia	Magnolia grandiflora	15	30
Wild Tamarind	Lysiloma bahamensis	25	35
Yellow Poinciana	Peltophorum pterocarpum	15	20
Drake Elm	Ulmus parvifolia	15	
Red Maple	Acer rubrum	15	30
Satin Leaf	Chrysophyllum oliviforme	12	15
Shady Lady Black Olive	Bucida buceras "Shady Lady"	No minimum distance	15
Tabebuia, pink or yellow	Tabebuia spp.	10	15

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~~B. — Visibility triangles. All landscaping and buffers shall conform to the design limitations established by Article 5, Section 5.1.7, Visibility Triangles.~~

Section 5.5.8. Existing trees.

A. Generally. Except for trees on the Florida Exotic Pest Plant Council's list of Category I invasive exotics, existing trees may be used to meet the minimum tree requirements for the site if they are indicated on the landscape plan (when a landscape plan is required), have a minimum diameter at breast height (DBH) of two inches, and are properly protected during any clearing or construction on the property.

Developers are encouraged to preserve existing heritage trees. For any site other than a single-family or duplex site, if during development or any time throughout the life of the development, regardless

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2151 of change in ownership or use(s), any heritage tree is removed or damaged, it shall be replaced with
2152 a Florida native tree that meets the quality of materials standards in this article, with a minimum
2153 caliper of six inches measured at a height of 12 inches above the ground, with a height not less than
2154 20 feet; however, this requirement shall not increase the total number of trees otherwise required
2155 for the site by more than 10%.

2156

2157 B. Protection of trees during development activities. Prior to any land preparation or other development
2158 activities, a protective barrier shall be established around all trees that are not to be removed, as
2159 follows:

2160

2161 1. The protective barrier shall enclose at least that area within a radius of one foot for every inch of
2162 caliper DBH around the tree.

2163

2164 2. The protective barrier may encompass more than one tree, and shall be established with a barrier
2165 as follows:

2166

2167 a. Posts shall be implanted in the ground deep enough to be stable and with at least three feet
2168 visible above ground.

2169

2170 b. The protective posts shall be placed not more than six feet apart and shall be linked together
2171 at a height of at least three feet by rope, chain, silt fence fabric, or orange safety fence at least
2172 three feet in height, or any combination thereof.

2173

2174 3. Required protective barriers and perimeter lines shall remain in place until all construction
2175 activity, except landscaping within the protected area, is terminated.

2176

2177 C. Construction activity limitations.

2178

2179 1. No attachment, wires (other than supportive wires), signs or permits may be fastened to any tree
2180 that is not to be removed.

2181

2182 2. Landscaping activities within the area of the protective barrier (before and after it is removed)
2183 shall be accomplished with manual labor or light machinery that, if self-propelled, is not designed
2184 to bear the weight of the operator. Such light machinery may include string trimmers, walk-behind
2185 lawn mowers, or chainsaws. Except as necessary to perform landscaping activities as described
2186 above, no construction personnel shall enter the area within the protective barrier. Further, no
2187 equipment, tools, construction materials, debris of any kind, or more than six inches of soil shall
2188 be placed within the protective barrier.

2189

2190 3. If fill is deposited adjacent to a protective barrier, a suitable temporary or permanent retaining
2191 structure shall be constructed to prevent siltation within the area of the protective barrier.

2192

2193 4. If it can be reasonably accomplished, water, sewer, and other utility lines should be routed around
2194 the protective barrier of trees that are not to be removed. If a line cannot reasonably be routed
2195 around the protective barrier, the line shall be tunneled beneath the area and shall be offset to
2196 one side of the trunk to prevent damage to the main tap roots.

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D. Exempt trees. This subsection shall not apply to trees grown at commercial nurseries, as part of their stock.

Section 5.5.9. Prohibited vegetation.

A. The following invasive exotic plants are prohibited and shall be removed from the development site, in its entirety. For projects developed in phases, all invasive exotic plants shall be removed from areas to be developed under future phases at the time the first or any subsequent phase is developed. Methods to remove and control invasive exotic plants must be included on required landscape plans, for projects that require a landscape plan. Methods of removal and control that would damage native vegetation to be preserved are prohibited. The development sites shall be maintained free from invasive exotic plants in perpetuity. For purposes of this subsection, invasive exotic plants include the following listed plants, or those plants currently listed as a Category I invasive by the Florida Exotic Pest Plant Council (FLEPPC) at the time of development:

Table 5.5.9: PROHIBITED INVASIVE EXOTICS	
Common Name	Scientific Name
Earleaf Acacia	acacia auriculiformis
Woman's Tongue	Albizia lebeck
Bishopwood	Bischofia javanica
Australian Pines	All Casuarina species
Carrotwood	Cupianopsis anacardioide
Rosewood	Dalbergia sissoo
Air Potato	Dioscorea alata
Murray Red Gum	Eucalyptus camaldulensis
Cuban Laurel Fig	Ficus microcarpa
Japanese Climbing Fern	Lygodium japonicum
Old World Climbing Fern	Lygodium microphyllum
Melaleuca, Paper Tree	Melaleuca quinquenervia
Downy Rose Myrtle	Rhodomyrtus tomentosus
Chinese Tallow	Sapium sebiferum
Brazilian Pepper, Florida Holly	Schirus terebinthifolius
Tropical Soda Apple	Solanum viarum
Java Plum	Syzygium viarum
Rose Apple	Syzygium jambos
Cork Tree	Thespesia populnea
Wedelia	Wedelia trilobata

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2217

B. The Weeping Fig (Ficus benjamina) is prohibited due to aggressive root systems unless it is maintained as a hedge with a maximum height of eight feet.

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2218 C. City of Cape Coral and state-prohibited vegetation shall be removed from all sites prior to issuance of
2219 certificate of occupancy or certificate of completion.
2220

2221 **Section 5.5.10. Quality, size, spacing, and species mix.**
2222

2223 All plant materials required by this section shall conform to the following at the time of planting:
2224

2225 A. Plant installation standards. Plant materials shall be installed in soil conditions that are conducive to
2226 the proper growth of the plant material. Soil in planting areas shall be loose, permeable, friable, and
2227 free of limestone and other construction materials, off-street parking area base material, rocks,
2228 noxious weeds, grasses, hard pan, clay, or other debris. For purposes of this section, noxious weeds
2229 are those plants listed in Section 5B-57.007, F.A.C, State Noxious Weed List, by the Florida Department
2230 of Agriculture and Consumer Services. It is recommended that such materials be removed to a depth
2231 of two and one-half feet for the well-being of plant materials. Required canopy trees, accent trees,
2232 palm trees, and shrubs shall be planted on grades not exceeding 3:1.
2233

2234 B. Plant species and grade. A minimum of 50% of all required canopy trees and accent trees and a
2235 minimum of 30% of all required shrubs and groundcovers, excluding turf grass areas, shall be Florida
2236 native as defined by this section. Any plant material on the Florida Exotic Pest Plant Council's list of
2237 Category I invasive exotics, as may be amended, shall not be counted toward the required plantings
2238 in this section. The City of Cape Coral prohibits the use of any plant material on the Florida Exotic Pest
2239 Plant Council's list of Category II invasive exotics, which are not expressly prohibited by Section 5.5.9.
2240 Plant materials used in conformance with the provisions of this section shall meet or exceed the
2241 Standards for Florida No. 1, as set forth in the latest edition of "Grades and Standards for Nursery
2242 Plants" published by the State Department of Agriculture and Consumer Services, including minimum
2243 crown spread diameter, root-ball sizes, and container volumes.
2244

2245 C. Tree standards.
2246

2247 1. Canopy tree size. Except in the South Cape Downtown District, all canopy trees required to meet
2248 minimum requirements shall have a minimum height of ten feet, and shall have a minimum
2249 caliper of two inches measured at a height of 12 inches above the ground. In the South Cape
2250 Downtown District, all canopy trees required to meet minimum requirements shall have a
2251 minimum height of 12 feet and a minimum caliper of three inches measured at a height of 12
2252 inches above the ground.
2253

2254 2. Palm tree size. Palm trees required to meet minimum requirements shall have a minimum size of
2255 16 feet overall, unless located within ten feet of a walkway, in which case they shall have a
2256 minimum of ten feet of clear trunk at planting.
2257

2258 3. Accent tree size. Accent trees required to meet minimum requirements shall have a minimum
2259 height of eight feet, have a minimum caliper of one and one-half inches measured at a height of
2260 six inches above the ground.
2261

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2262 4. Tree species mix. A mix of species shall be provided according to the overall number of trees
2263 required to be planted. Species shall be planted in proportion to the required mix. The minimum
2264 number of species to be planted is indicated in Table 2.
2265

Table 5.5.10: Required Species Mix	
Required Number of Trees	Minimum Number of Species
1 - 4	1
5 - 10	2
11 - 20	3
21 - 30	4
31+	5

2266
2267 5. Shrub standards. Except as otherwise provided herein, shrubs planted in residential development
2268 shall be a minimum of 18 inches in height and be in at least a three-gallon container size at time
2269 of planting. Shrubs planted in all non-residential and mixed-use development must be a minimum
2270 of 24 inches in height and be in at least a seven-gallon container size at time of planting. Shrubs
2271 required for buffer yard plantings must be a minimum of 32 inches in height and be in at least a
2272 seven-gallon container size at time of planting. Ornamental grasses may be used in lieu of 30% of
2273 shrubs required. Saw palmettos (*Serenoa repens*) and coonties (*Zamia floridana*) may be used as
2274 shrubs, provided they are 12 inches in height at time of planting.
2275

2276 6. Groundcovers and sod.
2277
2278 a. Groundcovers shall be planted no more than 24 inches apart for one-gallon pots or 12 inches
2279 apart for four-inch pots.
2280
2281 b. Wherever used, sod shall be installed with no gaps or overlaps, so as to present a finished
2282 appearance and prohibit erosion of the planted area.
2283

2284 7. Firewise landscaping. Landscaping within areas subject to wildfire hazard and should incorporate
2285 firewise landscaping techniques promulgated by the Florida Department of Economic
2286 Opportunity and the Department of Agriculture and Consumer Services.
2287

Section 5.5.11. Planting in public drainage or utility easements.

2288
2289
2290 No canopy trees, accent trees, palm trees, or shrubs required by this section shall be planted within a
2291 public drainage or utility easement without approval of the city. The city may deny approval to place
2292 landscaping materials in an easement if such would conflict with existing or proposed utilities or drainage
2293 functions. If the city approves the placement of any plant material installed to meet the requirements of
2294 this section within a public drainage or utility easement and the landscape material is removed or
2295 damaged by construction or maintenance of drainage facilities or utilities, the property owner shall
2296 replace all such plant material within 30 days of the completion of the drainage or utility work, in
2297 accordance with the following criteria:
2298

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2299 A. Canopy trees.
2300

2301 1. If planted back in the public drainage or utility easement, the property owner shall replace the
2302 canopy tree with a tree having a minimum caliper as the removed or damaged tree; however, if
2303 the removed or damaged tree is greater than four inches in caliper (measured at a height of 12
2304 inches above the ground), the replacement tree shall be required to be a minimum of four inches
2305 in caliper.
2306

2307 2. If planted in an alternate location that is not within a public drainage or utility easement, the
2308 property owner shall replace the canopy tree with one meeting the minimum size required within
2309 this Chapter and that is subject to all other requirements of this section. For sites required to have
2310 a site plan, such alternate plant location shall be indicated on a revised landscape plan and is
2311 subject to approval by the city.
2312

2313 B. Palm trees.
2314

2315 1. If planted back in the public drainage or utility easement, the property owner shall replace the
2316 palm tree with a palm tree having a minimum caliper as the removed or damaged palm tree;
2317 however, if the removed or damaged palm tree is greater than nine inches in caliper (measured
2318 at a height of 12 inches above the ground), the replacement palm tree shall be required to be a
2319 minimum of nine inches in caliper.
2320

2321 2. If planted in an alternate location that is not within a public drainage or utility easement, the
2322 property owner shall replace the palm tree with one meeting the minimum size required within
2323 this Chapter and that is subject to all other requirements of this section. For sites required to have
2324 a site plan, such alternate plant location shall be indicated on a revised landscape plan and is
2325 subject to approval by the city.
2326

2327 C. Shrubs. Regardless of whether the shrub is located in a public drainage or utility easement, the
2328 property owner shall replace the shrub with a shrub meeting the minimum size required within this
2329 chapter.
2330

2331 The property owner shall notify the city when the replacement planting required by this subsection
2332 have been installed and are ready for re-inspection.
2333

2334 **Section 5.5.12. Single-family homes and duplexes.**
2335

2336 The following landscape requirements shall be met for all single-family and duplex units.
2337

2338 A. Trees required for single-family homes. All newly constructed single-family homes shall have a
2339 minimum number of trees per building site in accordance with Table 5.5.12.A: Trees Required for
2340 Single-Family Homes. Where a home site includes a septic tank between the structure and the street,
2341 trees shall be planted a minimum of six feet from the septic tank or its drain field.
2342

Table 5.5.12.A: Trees Required for Single-Family Homes

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	Canopy Trees	Accent Trees	Palm Trees
Option A:	3	—	—
Option B:	2	—	3
Option C:	2	2	—
Option D:	1	2	3

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- B. Trees required for Duplexes. All newly constructed duplexes shall have a minimum number of trees per side in accordance with Table 5.5.12.B Trees Required for Duplexes. Where a site includes a septic tank between the structure and the street, trees shall be planted a minimum of six feet from the septic tank or its drain field.

Table 5.5.12.B: Trees Required for Duplexes (PER SIDE)			
	Canopy Trees	Accent Trees	Palm Trees
Option A:	3	—	—
Option B:	2	—	3
Option C:	2	2	—
Option D:	1	2	3

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- C. Credit for larger, canopy trees. The required number of canopy trees may be reduced by one tree if an existing or proposed canopy tree is at least two inches of increased caliper above the minimum planting size specified in this Chapter. Single-family homes and duplexes are not eligible for the Tree Credit Program provided by Section 5.5.15.
- D. Shrubs required. Each single-family home and duplex shall be landscaped with a minimum of 20 three-gallon shrubs of which a minimum of ten shall be planted at any location in the front yard.
- E. Mulch, groundcover, and planting beds.
1. The soil surface of the land area not covered by structures or hardscape features shall be covered with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs, groundcover, or any combination thereof. When shrubs are used in planting beds, shall be planted not more than 48 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used to cover more than 20% of the total land area not covered by structures or hardscape features and is not within a front yard or right-of-way.
 2. A two-inch minimum layer of organic mulch, measured after watering-in, shall be placed and maintained around all newly installed canopy trees, accent trees, palm trees, and shrubs. A two-inch minimum layer of organic mulch, measured after watering-in, shall be placed around all newly installed groundcover plants so that bare areas of sod are not exposed; however, the mulch around groundcover plants is not required to be maintained after the groundcover becomes established. Except as otherwise provided in these regulations, each canopy tree, accent tree, and palm tree shall have organic mulch no less than 36 inches beyond its trunk in all directions;

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2375 however, the mulch shall be kept away from the trunks and stems of plants so as to avoid
2376 conditions that may be conducive to collar rot, basal canker, or other fungi. The use of cypress or
2377 cedar mulch is strongly discouraged.
2378

2379 3. The use of any inorganic mulch, including pebbles or shells to cover the soil surface is not
2380 recommended. Inorganic mulch should only be used to frame the outside of beds or to control
2381 erosion and should not be used to cover the root ball of newly planted trees or shrubs. Inorganic
2382 mulch shall not exceed 10% of the total land area not covered by hardscape features.
2383

2384 4. The right-of-way from the edge of the street pavement to the property line shall be planted with
2385 sod or other approved groundcovers, except as otherwise provided in the City of Cape Coral Code
2386 of Ordinances or Land Use and Development Regulations.
2387

2388 F. Irrigation systems. Irrigation systems are encouraged but not required; however, where they are
2389 installed, they shall meet the standards of Section 5.5.14.
2390

2391 **Section 5.5.13. Landscaping for all development other than single-family homes and duplexes.**
2392

2393 The provisions of this section shall not apply to single-family homes and duplexes unless otherwise
2394 specifically stated herein. The soil surface of the land area not covered by structures or hardscape features
2395 shall be covered with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs,
2396 groundcover, or any combination thereof. Shrubs in planting beds shall be planted not more than 48
2397 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used to cover more
2398 than 20% of the total land area not covered by structures or hardscape features and is not within a front
2399 yard or right-of-way. The right-of-way from the edge of the street pavement to the property line shall be
2400 planted in accordance with the requirements of subsection B. below.
2401

2402 A. Tree planting requirements.
2403

2404 1. Except in the South Cape District, all sites, exclusive of buffer areas, shall have at least one canopy
2405 tree for each 1,000 square feet of gross land area, except that accent trees or palm trees may be
2406 substituted for a required canopy tree as indicated below. Trees required for buffers ~~shall not~~ may
2407 be used for meeting the minimum number of trees required for a site. In the South Cape District,
2408 all sites shall have at least one canopy tree for each 3,500 square feet of gross land area, except
2409 that accent trees or palm trees may be substituted for a required canopy tree as indicated below.
2410 For all districts, in the event the calculation of required number of canopy trees yields a fractional
2411 number, that number shall be rounded up to the next highest whole number prior to any
2412 calculation of the quantity of substituted accent trees or palm trees. Trees planted to meet the
2413 other requirements of this section can be included in the calculation of total number of trees
2414 required by this section. Such trees may be planted singularly or grouped together. Required
2415 canopy trees shall not be spaced less than 20 feet on center. Except in the South Cape District,
2416 each canopy tree shall be planted in a minimum planting area of 100 square feet with a minimum
2417 dimension of seven feet in width unless an alternative minimum planting area or dimensions are
2418 approved by the Director, based on planting details that ensure reasonable soil surface and
2419 planting medium volumes.
2420

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2421 2. In the South Cape District, each canopy tree shall be planted a minimum planting area of 24 square
2422 feet with a minimum dimension of four feet in width unless an alternative minimum planting area
2423 or dimensions are approved by the Director, based on planting details that ensure reasonable soil
2424 surface and planting medium volumes. Except in the South Cape District not more than 50% of
2425 the required canopy trees may be substituted with accent trees or palm trees in accordance with
2426 Section 5.5.13. In the South Cape District, not more than 25% of the required canopy trees may
2427 be substituted with accent trees or palm trees, in accordance with Section 5.5.13., as follows:
2428

2429 a. Accent trees may be substituted for required canopy trees at a rate of two accent trees for
2430 each canopy tree required; however, no canopy tree required for a landscape buffer yard shall
2431 be substituted with an accent tree, unless the minimum width of available buffer yard options
2432 would preclude compliance with the minimum separation distance between trees and
2433 overhead power lines.
2434

2435 b. The following palms shall not be substituted for required canopy trees:
2436

Table 5.5.13.A: PROHIBITED SUBSTITUTIONS FOR CANOPY TREES	
Common Name	Botanical Name
Areca Palm	Chrysalidocarpus lutescens (Dypsis lutescens)
Bamboo Palm	Chamedorea spp.
Christmas Palm	Adonidia merrillii (Veitchii merrillii)
Dwarf Palmetto	Sabal minor
European Fan Palm	Chamaerops humilis
Lady Palm	Rhapis excelsa
Majesty Palm	Ravenea glauca
Needle Palm	Rhapidophyllum hystrix
Pygmy Date Palm	Phoenix roebellini
Saw Palmetto	Serenoa repens
Silver Palm	Coccothrinax argentata
Thatch Palm	Thrinax spp.

2437
2438 To meet tree planting requirements in a landscape buffer yard or in off-street parking and
2439 vehicle use areas, palm trees, other than those listed above, may be substituted for canopy
2440 trees at a rate of three palm trees per each canopy tree substituted, regardless of the palm
2441 tree species. Except in the South Cape Downtown District, to meet tree planting requirements
2442 for areas other than a landscape buffer or off-street parking and vehicle use areas, palm trees
2443 may be substituted for required canopy trees at a rate of one palm tree per each canopy tree
2444 substituted. In the South Cape Downtown District, to meet tree planting requirements for
2445 areas other than a landscape buffer yard, palm trees may be substituted for required canopy
2446 trees at a rate of two palm trees per each canopy tree substituted.
2447

2448 c. Except for plantings in or near surface water management areas, a two-inch minimum layer
2449 of organic mulch, measured after watering-in, shall be placed and maintained around all
2450 newly installed canopy trees, accent trees, palm trees, and shrubs. Except in the South Cape

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- 2451 District, each tree shall have organic mulch no less than 36 inches beyond its trunk in all
2452 directions. In the South Cape District, each tree shall have organic mulch no less than 18
2453 inches beyond its trunk in all directions. All mulch shall be kept away from the trunks and
2454 stems of plants so as to avoid conditions that may be conducive to collar rot, basal canker, or
2455 other fungi.
2456
2457 The use of cypress or cedar mulch is strongly discouraged.
2458
2459 d. The use of any inorganic mulch, including pebbles or shells to cover the soil surface shall only
2460 be used to frame the outside of beds or to control erosion. Inorganic mulch shall not exceed
2461 10% of the total land area not covered by structures, pools, accent boulders, driveways,
2462 sidewalks, or other paving. It be used to cover the root ball of newly planted trees or shrubs.
2463 The balance of the soil surface shall be covered with planting beds with a two-inch minimum
2464 layer of organic mulch.
2465
2466 e. Canopy trees shall not be planted within seven feet of any roadway, sidewalk, or public utility
2467 unless an acceptable root barrier material is installed between the tree and the roadway,
2468 sidewalk, or public utility. Acceptable root barrier material shall consist of one of the
2469 following: a manufactured root barrier material, installed in accordance with manufacturer's
2470 directions, reinforced concrete with a minimum depth of 16 inches, or a continuous sheet of
2471 aluminum with a minimum depth of 16 inches and a minimum thickness of 0.024 inches.
2472 Where a root barrier is required, it shall be installed for a minimum distance of 20 linear feet.
2473
2474 f. In the event a property owner installs a public sidewalk closer than seven feet to any extant
2475 canopy tree, the property owner shall install an acceptable root barrier material in accordance
2476 with manufacturer's directions, such as herbicide impregnated materials or reinforced
2477 concrete of sufficient width and length, which will prevent the encroachment or undermining
2478 by the tree's root system, prior to the installation of the sidewalk.
2479
2480 g. In the South Cape District, in the event that the tree requirements in this section cannot be
2481 met due to site constraints, the property owner may pay an in lieu of fee to the Downtown
2482 CRA Tree Fund. Such site constraints shall include size of site, access or circulation
2483 requirement making trees impracticable, or extant site layout. The City Council shall establish
2484 a fee based on the average cost of the aforementioned trees. The city will use the funds in
2485 the Downtown CRA Tree Fund to provide or enhance the landscaping and vegetation in public
2486 areas of the Downtown CRA. To qualify to pay an in lieu of tree fee, a property owner must
2487 apply for approval by the Director of the Department of Community Development. If the
2488 Director approves the application, then the property owner may pay an in lieu of tree fee
2489 meeting planting requirements. This provision does not preclude applicants from applying for
2490 deviations in accordance with Section 5.5.20.
2491
2492 B. Right-of-way. The right-of-way from the edge of the street pavement to the property line shall be
2493 planted with sod or other approved groundcovers, except as otherwise provided in the City of Cape
2494 Coral Code of Ordinances or Land Development Code.
2495

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- 2496 C. Landscape design features. Six types of landscaping may be required on a site, depending on the site
2497 location and the specific elements of the development: foundation landscaping, landscaping adjacent
2498 to roads, off-street parking and vehicle use areas, retention/detention areas, and buffers. Trees
2499 planted to meet the requirements of these landscape design features can be included in the
2500 calculation of total number of trees required by this section under tree planting requirements.
2501
- 2502 1. Foundation Landscaping. To provide aesthetic relief between a building and off-street parking or
2503 vehicular use areas, all new development, except development in the Industrial District and South
2504 Cape District, must provide foundation landscaped areas equal to 10% of the proposed building
2505 gross ground level floor area. These foundation landscaped areas must be between the off-street
2506 parking area and the building, between public streets and the building, or between vehicular
2507 access ways and the building, or any combination thereof, with emphasis on the side(s) most
2508 visible to the public. Foundation landscaping may consist of surface level landscaped areas, raised
2509 planters, planter boxes, or any combination thereof. The width of the foundation landscaped
2510 areas shall be five feet, except for sites less than one acre with an average depth less than or equal
2511 to 135 feet, in which case the width shall be three feet. Foundation landscaped areas may be
2512 planted with trees, but must be planted with shrubs spaced a maximum of three feet on centers.
2513
- 2514 2. Landscaping Adjacent to Roads. Where a development site abuts a public right-of-way, excluding
2515 a dedicated alley, the following shall apply except within Mixed-Use Districts:
2516
- 2517 a. Except as otherwise provided herein, a strip of land, a minimum of ten feet in width, shall be
2518 provided between the abutting right-of-way and any structure or off-street parking area. For
2519 sites or portions of sites that are 135 feet or less in depth, the width may be reduced to five
2520 feet.
2521
- 2522 b. At a minimum, perimeter landscaping in this area shall consist of the following:
2523
- 2524 i. One shrub for every three linear feet of landscaped area, planted separately or grouped,
2525 except where a carport or an off-street parking or vehicular use area abuts the strip of
2526 land that is required adjacent to roads. Where a carport or an off-street parking or
2527 vehicular use area abuts the strip of land required adjacent to roads, a continuous hedge,
2528 consisting of shrubs spaced no greater than three feet on center is required.
2529
- 2530 ii. The requirement for canopy trees or accent trees depends on the presence of overhead
2531 electric distribution or transmission lines. Shade or accent trees shall be provided as
2532 follows:
2533
- 2534 (a) Except as provided below, one canopy tree for each 30 linear feet of frontage is
2535 required. If the calculations yield a fractional number, that number shall be rounded
2536 up to the next highest whole number. Trees may be placed in any arrangement within
2537 the landscape strip provided that the spacing between tree trunks is no greater than
2538 60 feet.
- 2539 (b) In locations where an adequate separation distance from overhead distribution or
2540 transmission lines, as specified in Table 1, § 5.2.7., is not available, two accent trees
2541 may be substituted for any shade tree required for each 30 linear feet of frontage.

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- c. Ingress and egress from the public right-of-way through all such landscaping to off-street parking or other vehicular use areas shall be permitted and may be subtracted from the linear dimension used to determine the number of trees and shrubs required.

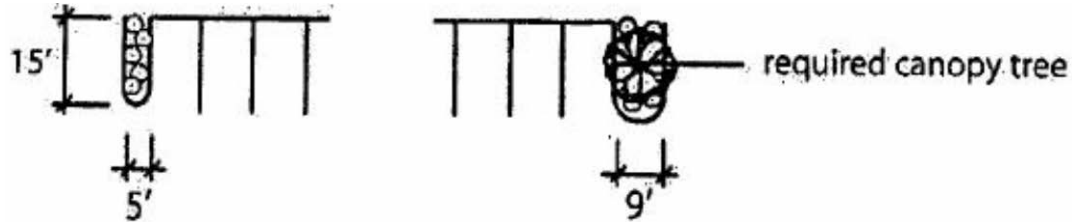
- d. Visibility triangles. As an aid to allow for safe operation of vehicles, pedestrians, and cyclists in the proximity of intersecting streets, driveways, alleys, and bicycle paths, there shall be limitations on the height of fences, walls, gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures as visually depicted in the Cape Coral Engineering and Design Standards and as follows:
 - i. All landscaping and signs within the visibility triangle shall provide unobstructed visibility between 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard.
 - ii. The property owner shall be responsible for maintaining all landscaping within the visibility triangle to provide the unobstructed visibility.
 - iii. The Community Development Director shall make the final determination regarding visibility triangles. Landscaping required under this section shall not supersede visibility requirements at the intersection of roads, and ingress/egress lanes as required in Article III, § 3.7., Visibility Triangles.

- 3. Off-street parking and vehicle use areas. The provisions of this section apply to all new off-street parking or other vehicular use areas not situated directly beneath a building containing habitable space.
 - a. Protection of landscaped areas from vehicular encroachment. When a landscaped area abuts or is within an off-street parking or vehicular use area, wheel stops or curbing shall be used to protect landscaped areas from encroachment. The placement of shrubs and trees shall be in accordance with the Parking Lot Standards of the City of Cape Coral Engineering Design Standards.

 - b. Except in the South Cape District, landscaping for sites with both of the following: 1) an average depth less than or equal to 135 feet and 2) an area less than or equal to one acre. All off-street parking areas shall be landscaped to provide visual relief and cooling effects and to define logical areas for pedestrian and vehicular circulation, as follows:
 - i. Minimum landscaped area. Landscaped areas including, but not limited to, landscaped islands, foundation landscaping, and landscaping within divider medians shall equal or exceed a minimum of 5% of the total off-street parking and vehicle use areas.
 - ii. Tree planting. At least one canopy tree shall be provided for every 150 square feet of required planting area. Palm trees may be substituted for canopy trees in accordance with this Chapter.
 - iii. Divider medians. Where canopy trees are planted in divider medians, the minimum width of the divider median shall be nine feet.
 - iv. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing ten or more parking spaces shall be terminated by a landscaped area at each end that

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2587 measures not less than five feet in width and not less than 15 feet in length. No trees shall
 2588 be planted in landscaped islands less than nine feet in width.
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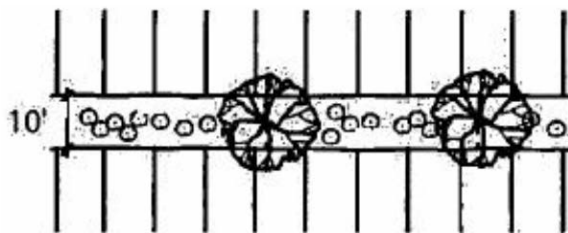


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 2592
 2593 c. Except in the South Cape District, landscaping for sites with either of the following: 1) an
 2594 average depth greater than 135 feet; or 2) an area greater than one acre. All off-street parking
 2595 areas shall be landscaped to provide visual relief and cooling effects and to define logical areas
 2596 for pedestrian and vehicular circulation, as follows:

2597
 2598 i. Minimum landscaped area. Landscaped areas including landscaped islands, foundation
 2599 landscaping, and landscaping within divider medians shall equal or exceed a minimum of
 2600 10% of the total paved surface area. Landscaped areas reserved for future parking spaces
 2601 may not be included in this calculation.

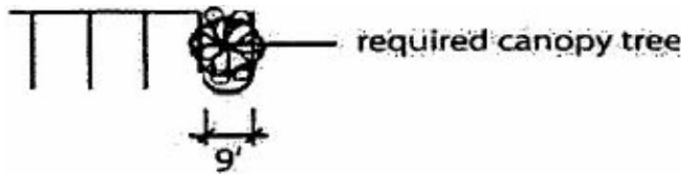
2602 ii. Tree planting.
 2603
 2604 (1) At least one canopy tree shall be provided for every 150 square feet of required
 2605 planting area. Palm trees may be substituted for canopy trees in accordance with this
 2606 Chapter.
 2607 (2) No parking space may be more than 100 feet from a tree.

2608
 2609 iii. Divider medians. If a divider median is used to meet the landscaping requirements, it shall
 2610 be a minimum width of nine feet.
 2611



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 2613
 2614 iv. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing
 2615 ten or more parking spaces shall be terminated by a landscaped area that measures not
 2616 less than nine feet in width and not less than 15 feet in length. Each such landscaped area
 2617 shall be planted with at least one canopy tree. Palm trees may be substituted for canopy
 2618 trees in accordance with this Chapter.
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- v. Landscape materials. All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass, groundcover, shrubs or other approved landscaping materials and this shall be noted on the landscape plans.
- d. Landscaping for sites in the South Cape District. Except within city dedicated parking areas, all off-street parking areas and applicable off-street parking area setbacks shall be landscaped to provide visual relief and cooling effects and to define logical areas for pedestrian and vehicular circulation, as follows:
 - i. Minimum landscaped area.
 - (1) Unless otherwise provided herein, all required landscape areas shall be planted with trees, shrubs, groundcover, sod, or any combination thereof. At a minimum, the landscape area(s) shall include low-lying shrubs or ground cover plants with a minimum 50% coverage of the landscape area at time of planting. When utilized, shrubs shall be planted at no more than three feet on center.
 - (2) All applicable minimum off-street parking area setbacks required by Article 4, Chapter 5, except rear when abutting an alley, shall be landscaped unless otherwise provided herein. This provision shall not apply to portions of setbacks areas utilized for shared curb cuts, joint driveways and shared off-street parking areas across lot lines.
 - (3) Ingress and egress from the right-of-way through any setback area is permitted and the width of the ingress and egress may be subtracted from required landscape areas.
 - ii. Landscaping for lots with a lot frontage greater than or equal to 125 feet. Off-street parking areas containing 24 or more parking spaces shall provide a landscaped area that measures not less than nine feet in width and not less than 15 feet in length for every 12 parking spaces. Such landscaped area(s) shall be located as intermediate within or terminal islands to parking space rows. Each such landscaped area shall be planted with at least one canopy tree and groundcovers or sod.
- 4. Retention/detention areas.
 - a. Planting of trees, palm trees, shrubs, and groundcovers in retention/detention areas is encouraged, provided that the placement does not conflict with the volume of storage required for the retention/detention areas and does not significantly interfere with or impede the flow of runoff in the retention/detention area.
 - b. All retention/detention areas shall be stabilized with sod or other groundcover capable of stabilizing the soil. Organic mulch is not allowed.

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2662 5. Buffers.

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- a. Determination of required buffer. Landscape buffer and screening shall be required to separate uses of differing zoning districts from each other. The type and width of buffer required shall be determined by using Table 5.5.13.B: Table of Minimum Buffer Requirements. If the developing property contains a non-residential use in a Residential District, the buffer shall be as indicated along the row labeled "Non-Residential Uses in Residential Districts"; otherwise, the buffer required shall be as indicated along the row of the developing property's zoning district under the applicable column. The buffer that is required along any segment of property line, if any, is dependent on the zoning of the abutting property and property separated by only a street containing not more than two lanes for motor vehicle traffic. A bicycle "lane" shall not be considered to be a lane for motor vehicle traffic. The specifications for each type of buffer are provided in Table 5.5.13.B.

TABLE 5.5.13.B MINIMUM BUFFER WIDTH With wall/Without wall										
DEVELOPING PROPERTY	ZONING	ZONING OF ABUTTING PROPERTY OR PROPERTY SEPARATED BY ONLY A STREET CONTAINING NOT MORE THAN TWO LANES FOR MOTOR VEHICLE TRAFFIC								
		R1, RE	RML	RMM	C	CC	P	I	INST	SC, MXB
	R-1, RE	X	X	X	X	X	X	X	X	X
	RML	5	X	X	X	X	X	X	X	X
	RMM	10 / 20	5	X	X	X	X	X	X	X
	C	10 / 20	10 / 15	10 / 15	X	X	X	X	X	X
	CC	10 / 20	10 / 15	10 / 15	X	X	X	X	X	X
	P	5	5	5	X	X	X	X	X	X
	I	40 wall	40	40	10 / 20	10 / 20	30	X	X	X
	INST	10 / 20	10 / 20	10 / 20	X	X	X	X	X	X
SC, MXB	5	5	5	X	X	X	X	X	X	

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- b. Buffer specifications.
- i. The standards for minimum width, plant types and quantities, and opaque features shall be in accordance with Table 5.5.13.B: Minimum Buffer Width and Table 5.5.13 C, Buffer Plantings. All plants provided within a buffer are specific to, and must be located within the buffer area. The buffer landscaping is in addition to other landscaping required by this Chapter and this landscaping must be within the buffer area. For buffer options that include a wall, the wall must conform to the standards of Article 5, Chapter 2, including the setback requirements.
- ii. The buffer width shall be measured along a line perpendicular or radial to the property line.
- iii. The number of each type of plant required shall be determined by dividing the length of each side of the property requiring a given type of buffer by 100 and multiplied by the number of plants per 100 feet indicated for a selected option. If the calculations yield a fractional number, that number shall be rounded up to the next highest whole number.

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- 2692 iv. If a wall is required, the wall shall extend the entire length of the property line, or until it
2693 connects to another wall.
2694 v. Ingress and egress from the right-of-way through any buffer shall be avoided; however,
2695 where it is determined by the city that avoidance is impractical or not preferable due to
2696 traffic flow or safety considerations, penetration through a buffer to ingress and egress
2697 from the right-of-way may be permitted and the width of the ingress and egress can be
2698 subtracted from the length of the buffer for the calculation of the number of plants
2699 required.
2700 vi. Plants, berms, or walls required for buffers within required sight triangles shall be in
2701 accordance with standards provided in Article 5, Section 1. Further, no fence, wall, or
2702 plant material shall be placed within a buffer that would impede the movement of or
2703 obstruct the view of either a pedestrian or driver of a vehicle that would create a potential
2704 safety hazard.
2705

TABLE 5.5.13 C: - BUFFER PLANTINGS										
Plants per 100 Linear Feet - Canopy/Accent/Shrub										
DEVELOPING PROPERTY	ZONING	ABUTTING PROPERTY								
		R-1, RE	RML	RMM	C	CC	P	INST	I	SC, MXB
	R-1, RE	X	X	X	X	X	X		X	
	RML	4/0/33	X	X	X	X	X		X	
	RMM	5/5/66	4/0/33	X	X	X	X		X	
		5/3/33 w/wall								
	C	5/5/66	5/5/66	5/5/66	X	X	X		X	
		5/3/33 w/wall	3/2/33 w/wall	3/2/33 w/wall						
	CC	5/5/66	5/4/33	5/2/66						
		5/3/33 w/wall	3/2/66 w/wall	5/4/32	X	X	X		X	
	P	3/2/33	4/0/33	4/0/33	X	X	X		X	
	I	9/4/80 w/wall	8/6/48	8/6/48	5/5/66	5/5/66	10/8/64		X	
			5/3/66 w/wall	5/3/66 w/wall	5/3/33 w/wall	5/3/33 w/wall				
	INST	5/5/66 5/3/33	5/5/66 5/3/33	5/5/66 5/3/33	X	X	X		X	
	SC, MX	4/0/33	4/0/33	4/0/33						

- 2706 c. Buffer requirements. No development within required buffer. Required buffer shall not
2707 contain any development other than drainage facilities, sidewalks, plants, walls, or berms.
2708 Driveways shall only be allowed in the required buffer if the buffer runs along a street. No
2709 grading, development, or land-disturbing activities shall occur within the buffer unless as part
2710 of an approved development or landscape plan.
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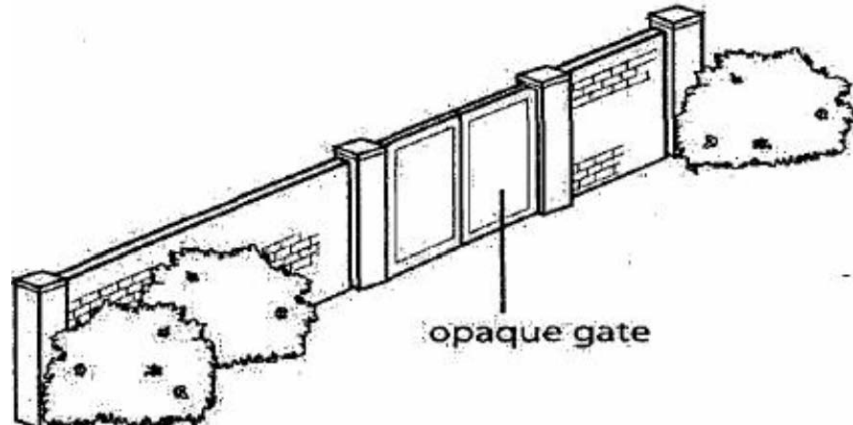
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- 2713 d. Buffer maintenance.
2714
2715 i. Any landscape buffer required pursuant to this section shall be maintained in order to
2716 preserve such buffer.
2717 ii. The plantings, walls, and berms that constitute screening for any buffer required pursuant
2718 to this section shall be maintained for the life of the development. Such maintenance shall
2719 include all actions necessary to keep the buffer free of litter and debris, and to keep
2720 plantings, walls, and berms in good repair and neat appearance.
2721 iii. In the event that any buffer screening or any element thereof, is damaged or fails to live
2722 so that it no longer furthers the purpose and intent of this section, it shall be replanted or
2723 replaced, whichever is applicable, with the type and size of material specified on the
2724 landscape plan.
2725
2726 e. Plant and tree arrangement. Required plants and trees shall be distributed in a manner to
2727 meet the intent of screening incompatible uses. In the event that plant materials are
2728 prohibited in a public drainage or utility easement which abuts or is coincident with a buffer,
2729 no new plant materials shall be centered closer than two feet from such easement.
2730
2731 f. Existing vegetation.
2732
2733 i. Retaining existing Florida native trees and other vegetation within a buffer is strongly
2734 encouraged.
2735 ii. If existing plants do not fully meet the standards for the type of buffer required, additional
2736 plant materials shall be installed.
2737
2738 g. Buffer walls and berms.
2739
2740 i. Whenever a wall is required within a buffer, it is shown in Table 5.5.13.B.
2741 ii. Where the buffer requires a berm, the berm shall be graded to appear smooth, rounded,
2742 and natural. Slopes shall not exceed a 3:1 grade.
2743 iii. Whenever a wall is required within a buffer, the wall shall conform to all requirements of
2744 Article 5 Section 2, and the requirements herein, and all other requirements for a wall.
2745 The wall may be placed anywhere in the buffer, provided at least 75% of the required
2746 trees and 100% of the required shrubs are on the side facing outward toward the right-
2747 of-way or abutting property (facing away from the property on which the wall is erected).
2748 Bare concrete block, even if painted, is prohibited. The following materials, either singly
2749 or in any combination, are the only materials that may be used to form the wall:
2750
2751 (a) Concrete block coated with stucco;
2752 (b) Textured concrete block;
2753 (c) Stone;
2754 (d) Brick; or
2755 (e) Formed, decorative, or precast concrete.
2756
2757 iv. Whenever a wall is required within a buffer, it shall be 100% opaque and shall be the
2758 maximum height allowed for the use and the location of the wall.

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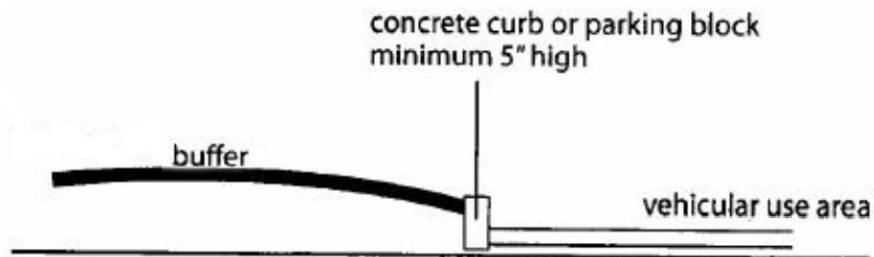
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- h. Gates. A gate may be allowed in a buffer wall, provided such gate is opaque, unless spanning a vehicular entrance, and meets the intent and purpose of this section. Gates shall be maintained in accordance with the maintenance standards for screening contained in this section.



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- i. Staggered walls. Whenever a wall is required within a buffer, it may be divided along the length of a buffer so that a wall consists of a series of wall segments instead of a continuous line. Such a divided wall shall be allowed only if it meets the intent and purpose of this section and if the wall segments overlap by a minimum of one-half of the distance between the two wall segments.
- j. Vehicular use areas. Concrete curbs or wheel stops at least five inches high shall be provided between vehicular use areas and buffer areas.



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- 3. Location of buffer.
 - a. The landscape buffer required by this section shall be located along the perimeter of a property except at approved entrances or exits to the parcel.
 - b. Buffers shall extend to the lot line or right-of-way line, except where easements, covenants, visibility triangles, or natural features require the buffer to be set back from the property line. The presence of an easement, covenant, or natural feature does not necessarily preclude the placement of a buffer, unless due to the nature of the easement, covenant, or natural feature the placement of a buffer would be precluded.

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- 2787
- 2788 c. Nothing other than open landscaped areas shall be located between the required buffer and
- 2789 the site perimeter unless the presence of an easement, covenant, or natural feature, which
- 2790 due to its nature, would preclude open landscaped areas.
- 2791
- 2792 d. Buffers may not be located on any portion of an existing or dedicated street right-of-way or
- 2793 roadway easement.
- 2794

2795 **Section 5.5.14. Irrigation.**

2796

2797 All landscaping shall contain an automatic irrigation system. All required irrigation systems shall be

2798 designed to minimize the application of water to impervious areas, including roads, drives, and other

2799 vehicle areas. Required irrigation shall also be designed to avoid damage to existing native vegetation

2800 from over watering or from physical conflicts with plant roots. The following standards shall apply to the

2801 design, installation, and maintenance of irrigation systems:

2802

- 2803 A. The irrigation system shall be properly maintained and operated consistent with watering
- 2804 schedules established by the South Florida Water Management District or the City of Cape Coral,
- 2805 whichever is more restrictive.
- 2806
- 2807 B. Existing native plants are exempt from this requirement.
- 2808
- 2809 C. Automatic control systems shall be equipped with an operable rain sensor or other devices, such
- 2810 as soil moisture sensors, to prevent unnecessary irrigation.
- 2811

2812 **Section 5.5.15. Tree credits.**

2813

- 2814 A. Tree credits for all development other than single-family homes and duplexes are available, to
- 2815 encourage the planting of larger trees than are otherwise required and to preserve trees existing on
- 2816 development sites. Based on the gross square feet of land area, each tree credit earned can count
- 2817 toward the number of trees required, subject to limitations indicated below. If tree credits are used,
- 2818 the credits shall be shown in the calculations on the landscape plan. Single-family homes and duplexes
- 2819 are not eligible for the tree credit program provided by this subsection. In no event, shall the number
- 2820 of trees required in a buffer be reduced.
- 2821
- 2822 B. Credit for planting larger canopy trees. One tree credit shall be applied to the overall tree count for
- 2823 each two inches of increased caliper above the minimum planting size specified in this Chapter. In no
- 2824 event, however, shall the actual number of trees be less than one-half of the total number required.
- 2825
- 2826 C. Credit for preserving existing canopy trees. Existing canopy trees in good health and meeting the
- 2827 minimum standards provided in this Chapter that are preserved on a site, and that are properly
- 2828 protected prior to and during the course of development activities, may be used to meet the
- 2829 requirements of this section for the site where the existing trees are located. For purposes of this
- 2830 subsection, development activities include land clearing, construction, grading, or placement of fill.
- 2831 Canopy trees that exceed the minimum size required by Article 5, Section 15 are credited at the
- 2832 following ratios for existing canopy trees:

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TABLE 5.5.13.D: CREDIT FOR PRESERVING EXISTING CANOPY TREES	
CREDITS	
1.	6" up to 12" caliper = credit for 2 trees
2.	12" up to 18" caliper = credit for 3 trees
3.	18" up to 24" caliper = credit for 4 trees
4.	24" or greater caliper = credit for 5 trees

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No credit shall be given to canopy trees on the Florida Exotic Pest Plant Council list of Category I or Category II invasive exotics.

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- D. Credit for preserving existing palms. Existing palm trees in good health and having a minimum of ten feet of clear trunk that are preserved on a site and properly protected prior to and during the course of development activities, may be used to meet the requirements of this section for the site where the existing palm trees are located. This credit shall be available for palms preserved in place or transplanted within a site, using accepted horticultural procedures.

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Section 5.5.16. Landscape maintenance.

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- A. General maintenance required. The property owner shall maintain all landscaping in accordance with the approved landscape plan, if any, and with the standards contained in this section, including:

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1. Trees, palm trees, shrubs, and other vegetation shall be trimmed so as to not be an obstruction to pedestrian or vehicular traffic or traffic visibility;

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2. Trees, palm trees, shrubs, and tree bed(s) shall be kept free of refuse, debris, and disease;

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3. Nonliving materials shall be maintained in good condition at all times.; and

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4. Shrubs planted in non-residential and mixed-use developments shall grow and be maintained at all times according to the minimum size specified on the approved landscape plan or to a minimum height of 36 inches, if not specified on the approved landscape plan. Shrubs that do not meet the minimum height specified or the alternate minimum height of 36 inches shall be replaced with like kind species and be maintained at a height of 36 inches.

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This requirement shall not preclude the placement of additional plant materials or other landscape features that comply with other requirements of these regulations.

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- B. Compliance required. For any development for which a landscape plan was submitted, the city shall not issue a certificate of occupancy or certificate of completion until the landscape architect or other licensed professional authorized pursuant to F.S. Chapter 481, Part II, who prepared, signed, and sealed the plan certifies to the city that all elements of the landscape plan have been installed in accordance with the approved plan. Each development will be inspected by the City of Cape Coral within two years after the certificate of occupancy or certificate of completion is issued, and from

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2871 time to time thereafter to ensure compliance with the applicable landscape standards and with the
2872 approved landscape plan, if any. Any dead or missing plant, or plant that appears to be dying or unable
2873 to sustain healthy future growth shall be replaced by one that conforms to the requirements of this
2874 section and approved landscape plan, if any. Failure to comply with this requirement shall constitute
2875 a violation of the City of Cape Coral Code of Ordinances, subject to any penalty imposed by law.
2876

2877 C. Changes subsequent to landscape plan approval. The replacement of plants indicated on an approved
2878 landscape plan with plants of the same species, or the placement of hardscape features that comply
2879 with other requirements of these regulations shall not require the submission of an amended
2880 landscape plan. The substitution of plants indicated on an approved landscape plan with plants of an
2881 alternative species of the same size and plant category (canopy tree, accent tree, palm tree, shrub)
2882 shall not require the submission of an amended landscape plan, unless a specific species has been
2883 prescribed as a condition of approval by the Hearing Examiner or City Council; however, any such
2884 substitution shall meet all other landscape requirements, including the minimum separation distance
2885 between trees and overhead power lines, the Florida native plant percentage, the tree species mix,
2886 and species specific palm tree substitution requirements. Except as described above, after a landscape
2887 plan has been approved, it shall be unlawful to change, modify, alter, or otherwise deviate from the
2888 terms or conditions of the landscape plan without first obtaining written approval of an amendment
2889 to the landscape plan. The approval of an amendment to a landscape plan does not constitute an
2890 amendment to the site plan. Modifications that require approval of an amended landscape plan
2891 include:

- 2892
- 2893 1. Replacement of any plant indicated on an approved landscape plan with a plant of a different
2894 species; or
 - 2895
 - 2896 2. The reduction of any quantity or size of plants below the size that was indicated on the most
2897 recently approved landscape plan.
- 2898

2899 The city may impose a reasonable fee for the review and approval of an application for an amendment
2900 to a landscape plan. An application for an amendment to a landscape plan shall be reviewed in
2901 accordance with the standards herein, unless the landscaped area is a legal nonconformity. An
2902 application for an amendment to a nonconforming landscaped area shall be reviewed in accordance
2903 with Article 5, Section 6.
2904

2905 D. Nonconforming landscaped areas.

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- 2907 1. Legal nonconforming landscaped areas established. All landscaped areas which were lawful prior
2908 to the adoption of this Code but which fail by reason of adoption of such amendment to comply
2909 therewith, are hereby declared to be nonconforming. Such nonconforming landscaped areas are
2910 hereby declared to be lawful and shall not be required to be altered to conform with such
2911 regulations as adopted by the City of Cape Coral; provided, however, that such nonconforming
2912 landscaped areas are restricted and subject to the requirements of this section.

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- 2914 2. Requirements for nonconforming landscaped areas.

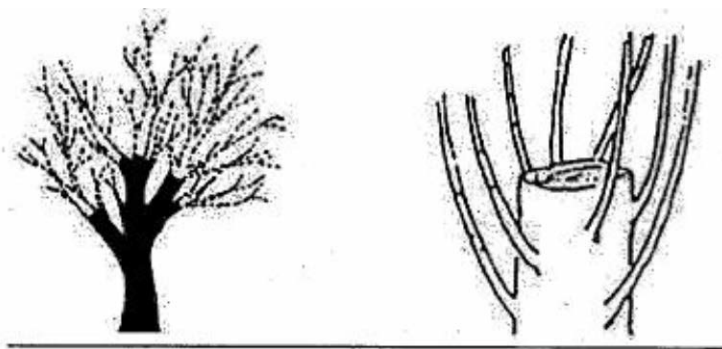
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- 2916 a. For sites with an approved landscape plan, nonconforming landscaped areas, including
2917 buffers, shall be maintained in accordance with approved landscape plans, as modified by
2918 requirements of any approval for PUD, PDP, special exception, or variance, if any. If the
2919 minimum requirements for landscaping are reduced subsequent to the most recently
2920 approved landscape plan, the property owner may request approval of an amended
2921 landscape plan meeting the minimum requirements pursuant to Article 5, Section 6.
2922
- 2923 b. For single-family and duplex sites, nonconforming landscaped areas shall be maintained in
2924 accordance with landscape regulations in effect at the time of issuance of the original building
2925 permit for the primary structure.
2926
- 2927 c. For sites without an approved landscape plan, other than single-family and duplex sites,
2928 nonconforming landscaped areas shall be maintained in accordance with landscape
2929 regulations in effect at the time of the most recent site plan approval.

2930
2931 E. Canopy tree pruning.

- 2932
- 2933 1. Except as otherwise provided herein, trees required by regulations in effect at the time of site
2934 development shall only be pruned to promote healthy, uniform, natural growth, to keep trees
2935 trimmed back from doors, windows, and public sidewalks or where necessary to promote health,
2936 safety, and welfare. Pruning shall be in accordance with "American National Standard for Tree
2937 Care Operations - Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices (Pruning)
2938 (A300, Part 1)" by the American National Standard Institute and "Best Management Practices:
2939 Tree Pruning" by the International Society of Arboriculture (ISA). Pruning of trees on any site over
2940 one acre should be supervised by a certified arborist. Pruning necessary to maintain public
2941 overhead utilities shall be in accordance with the National Electric Safety Code (NESC).
2942
- 2943 2. Trees required by regulations in effect at the time of site development shall not be pruned so as
2944 to include topping of trees through removal of crown material or the central leader, or any other
2945 similar procedure to permanently limit growth to a reduced height or spread or that cause
2946 irreparable harm to the natural form of the tree, except where such procedures are necessary to
2947 maintain public overhead utilities. Severely pruned trees required by regulations in effect at the
2948 time of site development must be replaced by the property owner. Replacement trees must meet
2949 the tree size requirements of this Chapter. A tree's growth habit shall be considered in advance
2950 of conflicts that might arise (e.g., signs, power lines, sidewalks, buildings, and similar conflicts).
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Excessively pruned trees.

3. Palm maintenance and pruning. Palms shall only be pruned in such a manner that removal of fronds does not exceed a 9:00 to 3:00 pattern and no more than one-half of the fronds are removed at a single time. This limitation shall not apply to flower stalks or fronds that are yellow or dead.



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Section 5.5.17. Planting in medians, cul-de-sacs, and roundabouts.

A. Permits.

1. Required. It shall be unlawful for any person to place any landscape material, including plant materials and hardscape materials other than mulch, in any median, cul-de-sac, or roundabout under the control of the city, without first obtaining a permit for such work from the City.
2. Application. An application for a permit shall be submitted on a form provided by the city and include all required information as specified in the permit application forms, including:
 - a. A general vicinity map showing the nearest intersecting streets;
 - b. The location of existing public and private utilities, including overhead power lines and drainage facilities within twenty (20) feet of the proposed landscaping;
 - c. A planting plan showing all pertinent dimensions, the location of existing plant materials with indication if they are to be removed, the location of proposed plant materials indicating the size and species, the location of existing or proposed hardscape materials, and the proposed irrigation plan and source of water;

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2984 d. A description of the proposed monthly maintenance schedule and the primary and alternate
2985 contact information for the parties responsible for maintenance;

2986
2987 e. Any additional information reasonably required by the City because of unique circumstances
2988 of the project; and

2989
2990 f. A non-refundable application fee as established by City Council.

2991
2992
2993 B. Median design. Landscaping in medians shall be in accordance with the City of Cape Coral Engineering
2994 Design Standards.

2995
2996 C. Cul-de-sac or roundabout design. Landscaping in cul-de-sacs or roundabouts shall utilize the plants
2997 and materials identified below. Such plantings shall be in accordance with the City of Cape Coral
2998 Engineering Design Standards.

2999
3000 1. Trees. Trees shall be of at least ten-gallon size at the time of planting. The following trees are
3001 permitted: Mahogany, Wild Tamarind, Yellow or Pink Tabebuia, Buttonwood, Crepe Myrtle,
3002 Gumbo Limbo, Southern Magnolia, Paradise tree, Pigeon Plum, Sago Palm, or Pygmy Date Palm.
3003 Other types of trees may be permitted providing the criteria established in this section are met.
3004 The prohibited vegetation standards of this Chapter shall apply in cul-de-sacs and roundabouts.

3005
3006 2. Shrubs. Shrubs to be planted should be durable in harsh conditions with slow, unobtrusive growth
3007 habits. All shrubs shall be of at least three-gallon size at the time of planting. The following shrubs
3008 are recommended for planting: Carissa, Cocoplum, Yaupon Holly, Myrsine, Necklace Pod,
3009 Podocarpus, and Wax Myrtle. Other types of shrubs may be permitted providing the criteria
3010 established in this section are met.

3011
3012 3. Other vegetation. The planting of flowers or any vegetation (other than approved trees or shrubs)
3013 by any private person or entity on cul-de-sac or roundabout owned by the city is prohibited. In
3014 addition, cul-de-sacs or roundabouts shall be left in sod. A small bed immediately surrounding a
3015 tree or shrub may be mulched.

3016
3017 ~~C~~D. Prohibited vegetation. The prohibited vegetation standards of section 9 of this article shall apply in
3018 medians.

3019
3020 ~~D~~E. Review criteria. In determining whether a permit will be issued, the city shall consider factors that
3021 include, but are not limited to, the following:

- 3022
3023 1. Relationship to traffic and pedestrian safety;
- 3024
3025 2. Location of existing and proposed public utilities, power lines, and other right-of-way
3026 improvements;
- 3027
3028 3. Effect on surface waters and drainage patterns;

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- 3074
4. Aesthetic effect of the proposed landscaping, including whether the resultant theme would be consistent throughout the specific median, and whether the proposed landscaping would coordinate with the landscape theme, if any, established in the vicinity;
 5. Type, size, and location of any extant plant materials and hardscape materials, if any;
 6. Type, size, and location of proposed plant materials and hardscape materials on the median;
 7. Method of removal of existing plant materials and hardscape materials;
 8. Adequacy of proposed irrigation, its expense to the city, and availability of water supply; ~~and~~
 9. The city's ability to maintain the landscaping in the event that the permittee fails to do so including economic ability, manpower, and location of the median, and
 10. Potential sight obstructions and compliance with all standards and regulations regarding sight distances and clear zones.
- ~~FF.~~ Approval.
1. In its approval of any permit request, the city may ~~impose conditions~~ request modifications, which may include ~~one or more of the following~~:
 - a. ~~Modifications to t~~The planting plan, including ~~but not limited to~~ the design to ensure integration with the aesthetic character of the neighborhood, the requirement that the entire median be included in the design, as well as to plant sizes, species, location, and nature placement of hardscape materials;
 - b. ~~Modification of p~~Plant installation or removal methods or specifications;
 - c. Regulation of the commencement and completion date, work hours, or phasing of installation or removal;
 - d. ~~Modification to t~~he proposed maintenance schedule;
 - e. Requirement of a financial instrument to ensure maintenance or removal of the landscaping;
 - f. Requirement that all or part of the landscaping be installed and maintained by a licensed landscape contractor or certified arborist;
 - g. Requirement that temporary traffic control measures be implemented by a barricade company with certification by the American Traffic Safety Services Association (ATSSA) or the International Municipal Signal Association (IMSA);
 - h. Requirement that curbing be installed;

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- 3075
3076 i. Requirement that erosion control measures be implemented; and
3077
3078 j. Submission of a hold harmless agreement acceptable to the city.
3079
3080 2. The permittee shall be responsible for compliance with the permit ~~and any associated conditions,~~
3081 along with the maintenance of the landscaping. The limitation on the time ~~period~~ for installing
3082 landscape materials shall not apply to replacement of materials as part of maintenance. The
3083 maintenance obligations shall remain in full force and effect for the life of the landscaping.
3084
3085 3. Approval of a permit to install landscape materials ~~in a median~~ shall not obviate the requirement
3086 to obtain all other necessary permits, including permits for irrigation and signs.
3087
3088 ~~FG.~~ Changes subsequent to approval. After a planting plan has been approved, it shall be unlawful to
3089 change, modify, alter, or otherwise deviate from the terms ~~or conditions~~ of the planting plan without
3090 first obtaining written approval of an amendment to the planting plan. Modifications that require
3091 approval of an amended landscape plan include the following:
3092
3093 1. Replacement of any plant indicated on an approved planting plan with a plant of a different
3094 species; or
3095
3096 2. Modification of the location of any plants or other landscape materials.
3097
3098 The city may impose a reasonable fee for the review and approval of an application for an
3099 amendment to a planting plan. An application for an amendment shall be reviewed in accordance
3100 with the standards herein. The replacement of plants indicated on an approved landscape plan
3101 with plants of the same species shall not require the submission of an amended landscape plan.
3102
3103 ~~GH.~~ Permit expiration ~~and extension~~. A permit for installing landscape materials in any median under
3104 the control of the city shall be valid for a one-year period from the date of issuance, except as
3105 otherwise provided within the permit approval. The permittee is solely responsible for submitting an
3106 application for renewal of the. In determining whether the permit should be renewed, the city shall
3107 consider all of the factors listed in subsection D. above, as well as the condition in which any materials
3108 planted pursuant to the permit have been maintained.
3109
3110 ~~HJ.~~ Maintenance. Once any landscape materials are installed in a median, the materials are the property
3111 of the city. Except when the city determines that it is in its best interest to maintain portions of
3112 landscaping in medians permitted in accordance with this subsection, the permittee shall be
3113 responsible for maintaining any and all landscaping permitted by this subsection in accordance with
3114 Section 16 of this chapter. Should any plant material or other landscape material or portion thereof
3115 become a safety hazard, unsightly, or die or become diseased, or if it is installed or maintained in a
3116 manner inconsistent with the permitting requirements herein, the city shall have the option of
3117 performing maintenance, replacing, or removing it. The City will determine compliance with this
3118 subsection.
3119

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3120 ~~H.~~ Removal. Any landscape materials planted or installed without the express written permission of the
3121 city shall be subject to removal by the city in its sole discretion. Except for the City and persons with
3122 a permit or other written authorization from the City, no person shall remove landscape materials
3123 from a median.

3124
3125 1. The authorization in this section for the removal of landscaping in medians shall be construed as
3126 supplementary to any other means of enforcement available to the city and shall not be construed
3127 so as to negate the authority of the Code ~~Enforcement~~Compliance Special Magistrate to hear and
3128 adjudicate appropriate cases.

3129
3130 2. The city may also, in its sole discretion, remove any landscape materials placed in any median
3131 under the city's control, for utility maintenance, safety, or any other reason. The City is not
3132 required to replace any landscaping removed pursuant to this section.

3133
3134 ~~H.K.~~ Revocation. If any ~~condition~~requirements of the approval ~~is~~are not satisfied, the city may revoke or
3135 stop work on any permit issued pursuant to this subsection.

3136
3137 ~~**Section 5.5.18. Cul de sac or roundabout landscaping.**~~

3138
3139 ~~A. Permit required. It shall be unlawful for any person to place any landscape materials in any cul de sac~~
3140 ~~or roundabout under the control of the city, without first obtaining a permit for such work from the~~
3141 ~~City.~~

3142
3143 ~~B. Planting design and materials. Permits shall be issued only for the planting of approved trees or shrubs~~
3144 ~~on cul de sac or roundabout. Such plantings on cul de sac or roundabout shall be in accordance with~~
3145 ~~the City of Cape Coral Engineering Design Standards.~~

3146
3147 ~~1. Trees. All trees to be planted in a cul de sac or roundabout shall be of at least ten-gallon size at~~
3148 ~~the time of planting. The following trees are: Mahogany, Wild Tamarind, Yellow or Pink Tabebuia,~~
3149 ~~Buttonwood, Crepe Myrtle, Gumbo Limbo, Southern Magnolia, Paradise tree, Pigeon Plum, Sago~~
3150 ~~Palm, or Pygmy Date Palm. However, other types of trees may be permitted providing the criteria~~
3151 ~~established in this section are met. The prohibited vegetation standards of this Chapter shall apply~~
3152 ~~in cul de sac and roundabout.~~

3153
3154 ~~2. Shrubs. Shrubs to be planted should be durable in harsh conditions with slow, unobtrusive growth~~
3155 ~~habits. All shrubs shall be of at least three-gallon size at the time of planting. The following shrubs~~
3156 ~~are recommended for planting: Carissa, Cocoplum, Yaupon Holly, Myrsine, Necklace Pod,~~
3157 ~~Podocarpus, and Wax Myrtle. However, other types of shrubs may be permitted providing the~~
3158 ~~criteria established in this section are met.~~

3159
3160 ~~3. Other vegetation. The planting of flowers or any vegetation (other than approved trees or shrubs)~~
3161 ~~by any private person or entity on cul de sac or roundabout owned by the city is prohibited. In~~
3162 ~~addition, cul de sac or roundabout shall be left in sod. However, a small bed immediately~~
3163 ~~surrounding a tree or shrub may be mulched.~~

3164

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~~C.—Plan submittal. Prior to the issuance of a permit for planting and prior to the planting of any tree or shrub on any cul-de-sac or roundabout, a planting plan shall be submitted for review to the City. The planting plan shall include all pertinent dimensions, source of water supply to landscape materials, and the proposed location of the trees or shrubs, with the species of tree or shrub by name.~~

~~D.—Approval criteria. In determining whether a permit will be issued, the city shall consider the following criteria:~~

~~1.—The location of existing and proposed public utilities and power lines;~~

~~2.—Vehicular use areas and intersecting streets;~~

~~3.—Diversion of surface waters or drainage patterns;~~

~~4.—Relationship to and effects on traffic safety;~~

~~5.—Type and location of trees or shrubs to be planted; and~~

~~6.—Type and location of any extant trees, palm trees, shrubs, or other vegetation on the cul-de-sac or roundabout.~~

~~E.—Permit expiration and renewal. A permit for planting trees or shrubs on a cul-de-sac or roundabout shall be valid for a period of one year from the date of issuance. At the expiration of such one-year period, the permit shall automatically expire unless renewed in accordance with the provisions of this section. The permittee shall be solely responsible for submitting an application for renewal of the permit. In determining whether the permit should be renewed, the city shall consider all of the criteria listed above as well as the existing condition of the trees or shrubs planted.~~

~~F.—Maintenance. Once any landscape materials are installed, the materials are the property of the city. The person or entity to which the permit for planting is issued shall be responsible for maintaining any and all trees or shrubs in good condition so as to present a healthy, neat, and orderly appearance for keeping such trees or shrubs free of refuse, debris, and disease. Failure to maintain such trees or shrubs in accordance with this provision shall be grounds not only for denial of a renewal or revocation of the planting permit, but also shall be grounds for removal by the city of the trees or shrubs planted.~~

~~G.—Removal. Any landscape materials planted or installed without the express written permission of the city shall be subject to removal by the city in its sole discretion. Except for the city and persons with a permit or other written authorization from the city, no person shall remove landscape materials from a cul-de-sac or roundabout.~~

Section 5.5.189. Lateral right-of-way planting.

A. ~~No permit required.~~ Registration required. It shall be unlawful to install any trees or shrubs in the city-owned lateral right-of-way without first obtaining a registration certificate from the city.

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3210 B. Refer to Section 5.1.9 for landscaping that may be installed within the lateral right-of-way without a
3211 permit or registration certificate.

3212 ~~Except in the South Cape Downtown district, no permit shall be required for a private person or entity~~
3213 ~~who owns the property abutting the city-owned lateral right-of-way to plant trees and shrubs in the~~
3214 ~~city-owned lateral right-of-way.~~

3215
3216 BC. Placement of planting material. In the South Cape Downtown District, in order to provide a cohesive
3217 urban streetscape, applicants may enter into an agreement with the city for placement of planting
3218 material in the lateral right-of-way. In all other districts, the planting of trees, palm trees, and shrubs,
3219 and the placement of the tree bed(s) shall be allowed in the city-owned lateral right-of-way subject
3220 to the following restrictions:

3221
3222 1. The property owner must call the Sunshine 811 notification service to have all underground
3223 utilities located and marked on the ground prior to installation of any landscape material. All
3224 excavation on public property, rights-of-way, or dedicated easements shall comply with the
3225 requirements of F.S. 556. **UNDERGROUND FACILITY DAMAGE PREVENTION AND SAFETY.**

3226
3227 2. Where potable water, irrigation or sanitary sewer force mains are located within the right of
3228 way, the property owner must contact the Utility Department to confirm the location of
3229 proposed canopy trees and palm trees.

3230
3231 3. No canopy tree shall be planted within 10 feet of existing or proposed drainage inlet or potable
3232 water, irrigation and sanitary sewer force mains.

3233
3234 4. No palm tree with a mature diameter of 8 inches or greater shall be planted within 5 feet of
3235 existing or proposed drainage inlet or potable water, irrigation and sanitary sewer force mains

3236
3237 25. Planting near overhead utility infrastructure shall be in accordance with the requirements of
3238 Section 5.5.7 of this article;

3239
3240 26. One or more trees may be immediately surrounded by a bed consisting of landscape edging
3241 materials, bedding plants or groundcover, and mulch or decorative rock so long as the size of the
3242 bed is reasonably related to the size and number of trees contained therein. Groundcover or
3243 annual bedding plants shall be permitted within the tree bed. Unless otherwise permitted, no
3244 other landscape edging material, concrete curbing, bedding plant or groundcover, mulch, or
3245 decorative rock shall be allowed in the city-owned lateral right-of-way;

3246
3247 37. The property owner abutting the portion of the lateral right-of-way in which the plantings and the
3248 tree bed(s) are placed shall be responsible for any and all costs incurred by the city for damage
3249 sustained to any drainage system or underground utility facilities as a result of said plantings or
3250 placement of the tree bed(s), and shall indemnify and hold the city, its officers, employees, and
3251 agents, harmless from any and all claims for injuries and damages to persons and property, both
3252 real and personal resulting from said plantings or placement of the tree bed(s);

3253
3254 48. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch,
3255 or decorative rock shall be placed in the city-owned lateral right-of-way within five feet of the

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roadway. Canopy trees shall not be planted within seven feet of any roadway, sidewalk, or ~~public~~
underground utility; unless an acceptable root barrier material, installed in accordance with this
Chapter.

~~59.~~ No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch,
or decorative rock shall be placed in the city-owned lateral right-of-way:

- i. Within five feet of either side property boundaries, as measured perpendicular from the
side property line;
- ii. Within three feet of the bottom on the swale in either direction;
- iii. Within three feet of a public sidewalk; or
- iv. So as to be an obstruction to pedestrian or vehicular traffic or traffic visibility and each
shall be maintained accordingly.

~~ED.~~ Maintenance. Once any landscape materials are installed in a lateral right-of-way, the materials are
the property of the city. The person or entity who owns the property abutting a portion of the lateral
right-of-way along a city street in which the trees, palm trees, shrubs, landscape edging material,
concrete curbing, bedding plants, or groundcover, mulch, or decorative rock have been placed shall
be responsible for the following:

1. Maintaining all plantings and tree bed(s) in good condition so as to present a healthy, neat, and
orderly appearance;
2. Trimming such trees, palm trees, shrubs, and tree bed(s) so as to not be an obstruction to
pedestrian or vehicular traffic or traffic visibility; and
3. Keeping such trees, palm trees, shrubs, and tree bed(s) free of refuse, debris, and disease.

Failure to maintain such trees, palm trees, shrubs, and tree bed(s) in accordance with this provision
shall constitute a violation of this section and shall be grounds for removal by the city of the trees,
palm trees, shrubs, and tree bed(s) in the right-of-way.

~~DE.~~ Removal.

1. The authorization in this section for the removal of trees, palm trees, shrubs, and tree bed(s) shall
be construed as supplementary to any other means of enforcement available to the city and shall
not be construed so as to negate the authority of the Code ~~Enforcement~~Compliance Special
Magistrate to hear and adjudicate appropriate cases.

2. The city may also, in its sole discretion, remove any trees, palm trees, shrubs, and tree bed(s)
placed in a city-owned lateral right-of-way for utility maintenance, safety, or any other reasonable
cause. Except for the city, persons with written authorization from the city, and the property
owner abutting the portion of the lateral right-of-way in which landscape materials have been
placed, no person shall remove landscape materials from a lateral right-of-way.

3. All expenses incurred by the city for removal trees, palm trees, shrubs, and tree bed(s), for any
reason, shall be the responsibility of the property owner.

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3302
3303 4. If, for any reason, such trees, palm trees, shrubs, and tree bed(s) are removed, the adjoining
3304 owner shall be responsible for returning the right-of-way to its original condition prior to the
3305 placement of the plantings and tree bed(s) and any expenses related thereto regardless of
3306 whether the removal of the trees, palm trees, shrubs, and tree bed(s) was performed by the
3307 property owner or the city pursuant to this section.
3308

3309 **Section 5.5.20. Deviations.**

3310
3311 A. Deviations of up to 10% from the requirements provisions of this section may be approved by the
3312 Director and as further provided herein) provided that the deviation will not be contrary to the public
3313 interest and will be in harmony with the general intent and purpose of this section and where either
3314 of the following applies:
3315

- 3316 1. Conditions exist that are not the result of the applicant and which are such that a literal
3317 enforcement of the regulations involved would result in unnecessary or undue hardship; or
3318
- 3319 2. Literal conformity with the regulations would inhibit innovation or creativity in design.
3320

3321 B. In determining whether a particular deviation request should be approved as the result of
3322 unnecessary or undue hardship, factors the Director shall consider include, but are not limited to, the
3323 following: site constraints such as shape, topography, dimensions, and area of the property, the effect
3324 other regulations would have on the proposed development, or other locational factors that may
3325 make compliance with this section impossible or impracticable, and the effect the requested deviation
3326 would have on the community appearance. Additionally, the Director shall find that the approval of
3327 the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the
3328 public while ensuring a high level of overall aesthetic appeal and visual interest in the city.
3329

3330 C. In determining whether a particular deviation request should be approved because literal conformity
3331 with the regulations would inhibit innovation or creativity in design, the Director may approve the
3332 request for deviation(s) if the applicant demonstrates that the design of the landscaping for which
3333 one or more deviations is sought is unique and innovative and, further, that the approval of the
3334 deviation(s) would enhance such unique and innovative design. Additionally, the Director shall find
3335 that the approval of the deviation(s) would serve the intent of this section to protect the health,
3336 safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual
3337 interest in the city. For purposes of this section, indicia of unique and innovative design may include,
3338 but are not limited to, the following:
3339

- 3340 1. Landscape details that are unique or that are exceptional in quality by virtue of artistic
3341 composition, quality of materials, dimensional attributes, or any combination thereof;
3342
- 3343 2. Plant massing that evokes exceptional expression through use of angularity, curvature, or other
3344 means;
3345
- 3346 3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
3347

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- 3348 4. Other details or forms that preclude visual monotony and are pleasing in aesthetic character.
3349
- 3350 D. Requests for deviations and the reasons therefore shall be set forth by the applicant in the application
3351 for deviation and shall be accompanied by documentation including, a narrative that clearly defines
3352 the section(s) of the regulations of the requested deviation, a narrative explanation as to the reason
3353 for the requested deviation and why it should be approved, sample detail drawings, elevations, and
3354 perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each
3355 deviation would operate to the benefit, or at least not to the detriment, of the public interest.
3356
- 3357 E. For deviations to avoid unnecessary or undue hardship, the Director subject to these standards and
3358 criteria, shall approve only the minimum deviation from the provisions of this section. For deviations
3359 to avoid the inhibition of innovation or creativity in design, the Director shall approve deviations
3360 necessary to enhance the unique and innovative design. The Director may impose reasonable
3361 conditions of approval in conformity with this section. Violation of such conditions and safeguards,
3362 when made a part of the terms under which a deviation is granted, shall be deemed a violation of this
3363 section and shall be enforceable not only by revocation of the deviation, but also by all other remedies
3364 available to the city, including all code enforcement procedures.
3365

3366 **CHAPTER 6. LIGHTING.**

3367
3368 **Section. 5.6.1. Purpose and applicability.**
3369

3370 The purpose and intent of this Section is to create outdoor lighting standards that promote the health,
3371 safety, and welfare of the residents and decrease the impacts of ambient lighting on the natural sky by
3372 establishing maximum intensities of lighting and controlling glare from lighting fixtures. The provisions
3373 of this article shall apply to all permanent outdoor lighting from any light source in nonresidential
3374 development.
3375

3376 **Section. 5.6.2. Outdoor lighting standards.**
3377

- 3378 A. Outdoor lighting fixtures. All outdoor lighting fixtures shall be installed in such a manner that the
3379 source of each individual light is shielded, positioned, and maintained so as not to be visible off the
3380 premises.
3381
- 3382 B. Light shielding for parking lot illumination. All parking lot lighting shall have no light emitted above
3383 90 degrees.
3384
- 3385 C. Outdoor lighting fixtures adjacent to residential. Any outdoor lighting fixture providing light to any
3386 parcel adjacent to a residentially zoned parcel, whether adjoining or not, shall emit no more than
3387 0.1 foot-candles of light, as measured from the property line of the adjacent residential parcel, using
3388 a standard light meter, the cell of which is directed towards the source of the light.
3389
- 3390 D. All areas designed for use after daylight hours shall be adequately lit, in accordance with Table 5.6.2.
3391 below.
3392

3393 **Table 5.6.2. Lighting levels for commercial and industrial developments**

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3394

Outdoor Lighting Area	Lighting Level minimum - maximum (foot-candles)
Entrance of commercial or industrial building	1 - 5
Sidewalk or walkway from parking area to entrance	.5 - 2
Parking lot	.5 - 3
Gas station canopy	10 - 15
Loading and unloading areas	15 - 20

3395

3396 E. Illumination ratio. Luminaire fixtures in parking lots shall be arranged in order to provide uniform
3397 illumination throughout the parking lot area of not more than a 4:1 ratio of average to minimum
3398 illumination, and not more than 12:1 ratio of maximum to minimum illumination.

3399

3400 F. Automatic Switching Requirements. Controls shall be provided that automatically extinguish all
3401 outdoor lighting when sufficient daylight is available using a control device or system such as a
3402 photoelectric switch, astronomic time switch, or equivalent functions from a programmable lighting
3403 controller, building automation system, or lighting energy management system, all with battery or
3404 similar backup power or device.

3405

3406 B. Modifications. Additions, modifications, or replacement of more than 25 percent of outdoor lighting
3407 fixtures existing as of the effective date of this ordinance shall require the submission of a complete
3408 inventory and photometric plan detailing all existing and any proposed new outdoor lighting. Any
3409 new lighting shall meet the requirements of this ordinance.

3410

3411 C. Exempt lighting. The provisions above shall not apply to streetlights, single-family residences,
3412 duplexes, or governmental facilities.

3413

3414 **CHAPTER 7. SCREENING**

3415

3416 This Chapter shall not apply to single-family detached or duplex residential development.

3417

3418 **Section. 5.7.1. Screening of rooftop equipment.**

3419

3420 All rooftop equipment shall be screened from view from the right-of-way or adjacent properties by the
3421 use of a parapet wall or other architectural feature to screen the equipment or shall be set back
3422 adequately from the building edge to conceal the equipment from adjacent properties at ground level.

3423

3424 **Section. 5.7.2. Screening of storage areas.**

3425

3426 A. All permitted storage areas shall be screened from adjacent properties and the right-of-way.
3427 Permissible screening materials include:

3428

3429 B. A six-foot high wall of concrete or similar approved material, Section. 5.2.7 on walls;

3430

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- 3431 C. A six-foot high opaque fence of an approved material, Section. 5.2.7 fences; or
3432
3433 D. A vegetative buffer, consisting of two staggered rows of shrubs a minimum of three feet tall at
3434 planting. The buffer shall create a dense barrier, at 80% opacity, within two years.
3435

Section. 5.7.3. Air conditioning units and mechanical equipment.

- 3436
3437
3438 A. All mechanical equipment at ground level shall be screened from adjacent property and the right-of-
3439 way. When possible, sound deadening materials shall be used. Permissible screening materials
3440 include:
3441
3442 1. A wall or opaque fence of adequate height to screen the view of the equipment, see Section. 5.2.7
3443 for approved materials.
3444
3445 2. A vegetative buffer, which meets the specifications in Section 5.6 for a four-foot tall buffer.
3446

Section. 5.7.4. Permanently installed stand-by generators.

3447
3448
3449 Permanently installed stand-by generators serving all properties other than single-family and duplex
3450 residences where life and safety does not depend on the performance of the system.
3451

- 3452 A. The generator may only be used in emergency situations when there is a power outage.
3453
3454 B. Repairs and testing may only occur during daylight hours a maximum of once per week.
3455
3456 C. Installation of a generator shall comply with the following restrictions:
3457
3458 1. The generator shall not encroach more than three feet into any required setback, and in no case
3459 shall be any closer than two and one-half feet from any property line. The generator shall not be
3460 installed in an easement.
3461
3462 2. The generator shall be screened from public view by:
3463
3464 a. A vegetative buffer which meets the specifications in Section 5.6 for a five-foot high hedge;
3465 or
3466
3467 b. A wall or opaque fence, of an adequate height to screen the equipment, which meets the
3468 specifications of Section 5.2.7.
3469
3470 3. Permanent signs shall be placed at the electrical service indicating the type and location of the
3471 generator.
3472

CHAPTER 8. NON-RESIDENTIAL DESIGN STANDARDS.

Section 5.8.1. Purpose and Intent.

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3477 The appearance of non-residential and mixed-use development affects the visual image and
3478 attractiveness of the City of Cape Coral. Utilitarian design and developments with minimal architectural
3479 features detract from the city's image and character. The purpose and intent of the non-residential design
3480 standards is to promote the City as an attractive destination for tourists and residents, and to support
3481 economic vitality while protecting the public health, safety, and welfare. These regulations intend to:

- 3482
- 3483 A. Enhance the visual image and attractiveness of the City;
- 3484
- 3485 B. Establish reasonable standards that offer flexible and diverse design options;
- 3486
- 3487 C. Ensure development in Cape Coral is of consistent high quality and character; and
- 3488
- 3489 D. Regulate site layout and architectural features to ensure aesthetic and visual interest.

3490
3491 **Section 5.8.2. Applicability.**

- 3492
- 3493 A. The standards of this section shall apply to all non-residential and mixed-use development for which
- 3494 application for site plan approval, or a building permit is made.
- 3495
- 3496 B. These design standards shall apply to existing development if a building's gross floor area is increased
- 3497 by 50% or more.
- 3498
- 3499 C. Development on Industrial zoned sites shall be exempt from these standards.
- 3500
- 3501 D. The design standards of this section do not apply when the City Council has established specific design
- 3502 standards for a unique area of the city unless the specific design standards otherwise expressly state
- 3503 their applicability.

3504
3505 **Section 5.8.3. Exemptions.**

3506
3507 The following types of buildings shall be exempt from the non-residential design standards.

- 3508
- 3509 A. Any building that has received a temporary use permit.
- 3510
- 3511 B. Any accessory structure.
- 3512
- 3513 C. Bona fide agricultural buildings in the Agricultural and RE Districts like such as barns and stables.
- 3514
- 3515 D. Guard houses.
- 3516
- 3517 E. Government facilities that are screened or not visible from a public street.
- 3518
- 3519 F. Model homes.
- 3520
- 3521 G. Municipal pump station buildings.
- 3522

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- 3523 H. Neighborhood storage and mini-storage buildings provided the buildings are enclosed with a wall with
3524 a minimum height of six feet.
3525
3526 I. Pavilions, carports, gas canopies, and similar buildings that have support posts or columns but no sides
3527 except for roof treatments as required in Section 5.8.8.
3528
3529 J. Buildings similar to those listed above as determined by the Director.
3530

Section 5.8.4. Conflicts.

3531
3532
3533 If any of the non-residential and mixed-use design standards of this section conflict with any other
3534 provision of the City of Cape Coral Code of Ordinances or Land Development Code, the provision that
3535 establishes the more specific standard or architectural theme governs. If neither conflicting provision
3536 establishes a specific standard or architectural theme, then the more restrictive provision governs unless
3537 otherwise expressly provided.
3538

Section 5.8.5. Appearance, Building Mass, and Design Treatments.

- 3539
3540
3541 A. Consistency Within a Development. Except for buildings on outparcels that contain only one unit,
3542 designed and constructed to be occupied by a single end user, regardless of the number of business
3543 operations conducted within the single unit, buildings within a development shall be designed with
3544 color schemes, building materials, finishes, roof types, roof lines, and exterior roof finishing consistent
3545 with or that resemble those of the principal building or structure on the main parcel(s).
3546
3547 B. Consistency and Integrity of Building Components. All portions of any exterior side of a building,
3548 extending from finished grade to the top of the parapet wall or eaves, extending the entire width of
3549 the side of a building, must be designed with consistent architectural style, detail and trim features.
3550 All architectural features other than parapet walls, including towers or cupolas, shall be designed so
3551 as to have an equivalent character from any ground-level angle from which they can be viewed.
3552 ~~Although perfectly symmetrical or uniform treatments are not required, architectural features that~~
3553 ~~appear to enclose a spatial volume when viewed from one angle but not from all angles, or that~~
3554 ~~incorporate gratuitous treatments that are not intended to be viewed from all ground-level angles,~~
3555 ~~are prohibited.~~
3556
3557 C. ~~Transparency of Building Walls. Windows and doors used to meet the transparency requirements~~
3558 ~~identified below shall have a visible transmittance of at least 50% and an exterior reflectance no~~
3559 ~~greater than 20% Glazing.~~
3560
3561 1. For buildings abutting and facing a public street, transparent windows, doors, or any combination
3562 thereof, shall cover at least 25% of the first story building wall area ~~between two feet and 10 feet~~
3563 ~~above~~from grade to a height of 10 feet.
3564
3565 2. For buildings with walls abutting but not facing a public street, transparent windows, doors, or
3566 any combination thereof, shall cover at least 15% of the first story building wall area ~~between two~~
3567 ~~feet and 10 feet above~~from grade to a height of 10 feet.
3568

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3569 3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking
3570 areas, transparent windows, doors, or any combination thereof, shall cover at least 25% of the
3571 first story building wall area between two feet and 10 feet above from grade to a height of 10 feet.
3572

3573 D. Sides of a building. For buildings located on outparcels, all exterior sides of a building shall comply
3574 with this section. Additionally, except for a side of a building built flush with a side lot line, a side of a
3575 building that faces a rear lot line of an abutting property, and a side of a building that faces a property
3576 line that abuts an alley, all sides of a building shall comply with the standards of this section.
3577

3578 1. All exterior sides of a building subject to this subsection shall include a repeating or varying
3579 pattern and shall comply with both design elements listed below. At least one of the three design
3580 elements shall repeat horizontally. All elements shall repeat or alternate at intervals of no more
3581 than 50 feet, either horizontally or vertically.
3582

3583 a. Each wall shall provide visual differentiation of wall surfaces through variations in a minimum
3584 of one of the following:
3585 i. Building materials;
3586 ii. Finish textures; or
3587 iii. Color.
3588

3589 b. Each wall shall provide a minimum of two of the following architectural features:
3590 i. Columns;
3591 ii. Pilasters;
3592 iii. Awnings;
3593 iv. Canopies;
3594 v. Reveals (if provided shall have a minimum depth of ½ inch);
3595 vi. Corbels;
3596 vii. Quoins ;
3597 viii. Keystones;
3598 ix. Cornices (if provided shall have a minimum height of four inches); or
3599 x. Other features as determined by the DCD Director that provide articulation or reduce
3600 building massing.
3601

3602 2. All exterior sides of a building shall provide a minimum number of design elements among
3603 elements a. thru r. below in accordance with the gross square footage of a building, as provided
3604 herein. Required design elements may be located on an exterior wall of a building, on the roof of
3605 the building, or on both the wall(s) and the roof of a building, as applicable. If located on a roof,
3606 the design element shall be located on a portion of the roof that faces in the same direction as
3607 the exterior wall. It is not the intent of this section, however, to require the design elements to
3608 be on both the exterior wall(s) and the roof.
3609

Building Gross Floor Area (sq. ft.)	Minimum number of Design Elements Required
10,000 sq. ft. or less	3
10,001 to 49,999 sq. ft.	4
50,000 sq. ft. or greater	5

3610

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- 3611 a. Architectural features and detailing that create a frame and definition to the primary public
3612 entrance;
- 3613
- 3614 b. One or more canopies or awnings that extend a total length of at least 30% of the length of
3615 any side of a building subject to this subsection;
- 3616
- 3617 c. One or more attached porticos;
- 3618
- 3619 d. Peaked or arched roof form;
- 3620
- 3621 e. Overhanging eaves a minimum of 18 inches wide on all portions of a building with a pitched
3622 roof;
- 3623
- 3624 f. Arcade;
- 3625
- 3626 g. Colonnade;
- 3627
- 3628 h. Arches or arched forms other than roof forms or an arcade;
- 3629
- 3630 i. Windows or glazing that exceed the minimum glazing requirements of Subsection 5.8.5.C. by
3631 a minimum of 10% for a wall;
- 3632
- 3633 j. Ornamental or structural details, including, banding or moldings used throughout the exterior
3634 building walls that add decoration and detail to a building roofline, building openings, or
3635 windows;
- 3636
- 3637 k. Two or more ornamental or structural details that are horizontally continuous (except for
3638 interruptions for doors and windows), which may include belt courses or any type of three-
3639 dimensional molding, banding, projections, recesses, or niches that help to define a base,
3640 body, and cap to the proposed building;
- 3641
- 3642 l. A tower such as a clock tower or bell tower;
- 3643
- 3644 m. A cupola;
- 3645
- 3646 n. Sculptured artwork (excluding corporate logos or advertising);
- 3647
- 3648 o. Vertical articulation of walls, including pilasters, columns, or other relief with maximum
3649 separation of one third of the wall on which they are located, not to exceed a separation of
3650 100 feet;
- 3651
- 3652 p. Planter boxes that are integrated into the building architecture or wing walls that incorporate
3653 landscaped areas or places for sitting; or
- 3654
- 3655 g. Curved wall containing an uninterrupted curve along at least 10% of the length of any side of
3656 a building subject to this subsection.

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4.r. One or more vegetated trellises that occupy a minimum of 25% of the area of a single wall.

3. For buildings with a gross floor area of greater than 50,000 square feet, no exterior wall shall exceed 100 linear feet in a horizontal direction within a single, continuous wall plane, nor shall any single, continuous wall plane constitute more than 60% of the building's total length. A wall shall be deemed to be in a single, continuous wall plane unless it is offset (recessed or projected) by at least ~~36-24~~ inches from any adjacent wall plane or contains a pilaster that projects at least 36 inches from the wall.

Section 5.8.6. Wall Height Transition.

- A. Buildings that are more than twice the height of the height of extant buildings on abutting property shall incorporate one or more transitional height elements to segue the height of the new building to the height of the closest existing building. The transitional height element shall be incorporated on the new building at the approximate cornice or roof line of the nearest existing building, if any. Where there is no extant building on adjacent property, the requirements of this sub-section will not apply. Where no single building is "nearest" to the new building, but instead two or more buildings are located an equidistance from the new building, the property owner may select the approximate cornice or roof line of any of such equidistant buildings at which to incorporate the transitional height element on the new building.
- B. Transitional height elements may include:
 1. Cornices or other decorative elements that run the length and width of the building and project a minimum of six inches from the wall;
 2. Upper story setbacks and offsets at the approximate cornice or roof line of the nearest existing building as provided above;
 3. Variations in roof planes.

Section 5.8.7. Building Materials.

- Only the following finish materials for exterior walls are permitted. All other finish materials are prohibited.
- A. Concrete block with stucco finish (CBS), synthetic stucco (an exterior cladding system with a stucco-like outer finish applied over insulating boards or composite materials), or other exterior coating that is the visual equivalent of stucco. Non-textured concrete block with visible mortar joints, even if painted, is not an acceptable finished material.
 - B. Textured or ribbed concrete block, e.g. "split-face block".
 - C. Reinforced concrete of any finish.

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- 3703 D. Glass or other glazing, whether transparent, translucent, or applied as a veneer. For purposes of this
3704 subsection, glazing consists of glass or any material that resembles glass including, but not limited to,
3705 Plexiglass or polycarbonate.
3706
- 3707 E. Stone or brick, including simulated stone or brick.
3708
- 3709 F. Wood, other than plywood or T1-11 type paneling, if termite-resistant species, pressure-treated,
3710 painted, or stained.
3711
- 3712 G. Fiber-reinforced cement panels or boards.
3713
- 3714 H. Tile.
3715
- 3716 I. Architectural metal panels, provided that corrugated metal panels shall not exceed 30% of the surface
3717 of any wall.
3718
- 3719 J. Vinyl siding, provided that vinyl siding shall not exceed 30% of the surface of any wall.
3720
- 3721 K. Cargo or shipping containers, provided that any exterior wall of the container is completely sheathed
3722 with one of more of the allowable materials listed in this subsection.
3723

3724 **Section 5.8.8. Roofs.**
3725

- 3726 A. All non-residential and mixed-use buildings shall have variations in rooflines and roof features that
3727 are consistent with the building's mass and scale. In addition, roofs shall include features from at least
3728 two of the following five categories below. ~~Flat, unadorned roofs are prohibited.~~
3729
- 3730 1. Parapet wall provided the parapet extends completely around the building on all sides. However,
3731 this requirement shall not prohibit the substitution of a pitched roof in lieu of a parapet for part
3732 of a building.
3733
- 3734 2. A three-dimensional cornice treatment, a minimum of four inches high (not applicable along any
3735 portion of a wall that is built flush to the side lot line). Flashing at the top of a parapet shall not
3736 qualify as a cornice. Cornices shall return a minimum of eight feet around corners that transition
3737 from a building wall that requires a cornice to a building wall that does not require a cornice.
3738
- 3739 3. Varied roof lines with different roof heights and or separate or distinct roof segments that fall at
3740 different horizontal planes above the cornice line;
3741
- 3742 4. Overhanging eaves that extend at least 18 inches beyond the supporting walls, with a minimum
3743 fascia of six inches in height (not applicable along any portion of a wall that is built flush to the
3744 side lot line);
3745
- 3746 5. Vertical variation in the roof line with a minimum change in elevation of two feet.
3747

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3748 B. Pitched roofs such as gable, hip, shed or mansard roofs shall be clad with highly durable materials such
3749 as standing seam metal, slate, ceramic, or fireproof composite tiles. Fiberglass and asphalt shingles
3750 are prohibited except for dimensional grade or better.
3751

3752 1. Allowed slope. Pitched roofs shall have a minimum slope of three feet vertical rise for every 12
3753 feet of horizontal run. The maximum slope of a pitched roof shall not exceed a one-foot vertical
3754 rise for every on foot of horizontal run.
3755

3756 C. Roofs covering pavilions, carports, gas canopies, and similar structures with support posts or columns
3757 but no sides. Buildings with roofs that lack walls, whether free-standing or attached to another
3758 building, shall have a minimum slope of three feet vertical rise for every 12 feet of horizontal run.
3759 Unless a roof with an alternative design is approved by the DCD Director, all roofs are required to
3760 possess a pitched roof with a minimum slope of three feet vertical rise for every 12 feet of horizontal
3761 run. The DCD Director shall consider the following two criteria in determining whether to approve a
3762 roof with an alternative design:
3763

3764 1. Whether the design of the roof evokes exceptional expression through the use of angularity,
3765 curvature, or other means; or
3766

3767 2. Whether the design of the roof precludes visual monotony and enhances the aesthetic character.
3768

3769 Flat and parapet roofs are prohibited for buildings covered by this subsection.
3770

3771 **Section 5.8.9. Building Design Standards in the SC District.**
3772

3773 A. All buildings, whether residential, nonresidential or compound use, shall conform to the design
3774 standards provided herein., except as superseded by the following requirements.
3775

3776 B. Public entrances. Public entrances shall be provided as follows:
3777

3778 1. Any building facade that faces a street (excluding alleys) shall provide a public entrance oriented
3779 toward such street. In the case of a corner lot where more than one building facade faces a street,
3780 a corner entrance may serve to meet the requirements for the two streets that intersect and
3781 create the corner. All public entrances shall have convenient pedestrian access providing a direct
3782 connection from the street to the entrance via a walkway a minimum of four feet in width and
3783 not traversing any portion of an off-street parking area. In the event the City determines that this
3784 provision cannot be met due to site constraints, such walkway may traverse the off-street parking
3785 area but shall be clearly delineated by a change in paving material, pavement markings, or similar
3786 treatment.
3787

3788 2. Any building facade that faces a dedicated city parking area shall provide a public entrance
3789 oriented toward such dedicated city parking area with convenient pedestrian access providing a
3790 direct connection via a walkway a minimum of four feet in width.
3791

3792 3. It is not the intent of these provisions to require more than two public entrances to any use
3793 intended to be occupied by a single tenant. In the event that the provisions above cumulatively

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3794 require more than two public entrances, then the requirements may be reduced such that two
3795 public entrances shall be required. In determining the orientation of such public entrances.
3796 Parkway street designations and dedicated city parking areas shall have priority.
3797

3798 C. Transparency of building walls. Except for parking structures, building walls shall contain transparent
3799 windows, doors, or any combination thereof, meeting the following standards:
3800

3801 1. For lots abutting ~~parkway or~~ primary or secondary street designations, transparent windows,
3802 doors, or any combination thereof, shall cover at least 50% of the first story building wall area
3803 that faces the ~~parkway or~~ primary or secondary street designation. Above the first story, non-
3804 residential uses, except hotels, shall provide transparent windows, doors, or any combination
3805 thereof, covering at least 25% of the entire building wall area; residential and hotel uses shall
3806 provide at least 15%.
3807

3808 2. For lots abutting ~~secondary or tertiary~~local street designations, non-residential uses, except
3809 hotels, shall provide transparent windows, doors, or any combination thereof, covering at least
3810 25% of the entire building wall area that faces the secondary or tertiary street designations;
3811 residential and hotel uses shall provide at least 15%.
3812

3813 3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking
3814 areas, non-residential uses, except hotels, shall provide transparent windows, doors, or any
3815 combination thereof, covering at least 25% of the entire building wall area that faces the
3816 dedicated city parking area; residential and hotel uses shall provide at least 15%.
3817

3818 4. Non-residential use building walls facing navigable waterways shall provide transparent windows,
3819 doors, or any combination thereof, covering at least 25% of the entire building wall area.
3820

3821 ~~5. For lots abutting parkway, primary, or secondary street designations, all window and door glass~~
3822 ~~that faces such designations, shall have a visible transmittance of at least 50% and an exterior~~
3823 ~~reflectance no greater than 20%. The bottom of such windows shall be no higher than 36 inches~~
3824 ~~above grade, or six inches above the floor of the lowest habitable story, whichever is higher.~~
3825 ~~However, if the building is designed with floodproofing panels or barriers, the bottom of such~~
3826 ~~windows shall be located no higher than six inches above the top of the floodproofing panel or~~
3827 ~~barrier.~~
3828

3829 65. The exterior of windows and doors shall remain unshuttered at all times of the day. This provision
3830 shall not apply to the following:
3831

3832 a. Un-walled areas such as, but not limited to, dining and seating areas associated with
3833 restaurants and bars.
3834

3835 b. Hurricane shutters or flood-proofing panels during the time period in which a flood watch or
3836 warning, a tropical storm watch or warning, or a hurricane watch or warning is in effect for
3837 any portion of Lee County. Such shutters or panels shall be removed within a week from the
3838 time they are put up, unless a hurricane, tropical storm, or flood has impacted the area, in

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3839 which case the shutters may remain up for not more than three months from the date of the
3840 incident, except for good cause shown to the City.

3841
3842 D. Non-residential buildings with a first story consisting of more than 35,000 square feet of floor area
3843 and consisting of a single use shall meet the following requirements:

3844
3845 1. One public entrance shall be provided for every 75 feet of overall building frontage; or

3846
3847 2. Liner buildings meeting the following requirements shall be provided:

3848
3849 a. Liner buildings shall be provided along at least 50% of the overall building frontage.

3850
3851 b. Liner buildings shall contain active uses with at least one public entrance provided for every
3852 75 feet of liner building frontage. Such liner buildings shall comply with all applicable building
3853 setbacks and building frontages.

3854
3855 c. Liner buildings shall have an interior depth of at least 15 feet.

3856
3857 d. Liner buildings may be detached from, attached to, or integrated into the principal building.

3858
3859 E. Architectural elements design standards: awnings, canopies, colonnades, arcades, balconies, front
3860 porches, stoops/landings, and cupolas. A first story facade facing a street or dedicated city parking
3861 area shall provide shade with awnings, canopies, colonnades, arcades, balconies, or any combination
3862 thereof, for at least 50% of its length or width, unless prohibited by Article 4, Chapter 5. Architectural
3863 elements, or any combination of architectural elements, may occur forward of the minimum setback,
3864 as applicable, but shall not extend forward of a lot line. Architectural elements, or any combination
3865 of architectural elements shall not encroach into an easement unless approved by the City. The city
3866 may require the property the property owner to enter into a formal easement agreement in a form
3867 acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to
3868 encroachments in the easement that result from maintenance or public infrastructure improvements.

3869
3870 1. The City shall consider the following criteria in determining whether to approve an architectural
3871 element, or any combination of architectural elements, that would encroach into the easement:

3872
3873 a. The extent to which the architectural element would encroach into the easement;

3874
3875 b. The effect of such encroachment on any utilities that are either currently located in the
3876 easement or that may be located in the easement in the future; and

3877
3878 c. The effect of such placement on any abutting properties or streetscape.

3879
3880 2. Awnings and canopies. Awnings and canopies extending from the first story, facing a street or
3881 dedicated city parking area, and serving to meet the 50% length/width requirement of Article 4,
3882 Chapter 5 shall conform to the following:

3883

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- 3884 a. Depth shall be a five-foot minimum projection from the building facade.
3885
3886 b. Height shall be an eight-foot minimum clearance, including suspended signs.
3887
3888 3. Colonnades and arcades. Colonnades and arcades facing a street or dedicated city parking area
3889 shall conform to the following:
3890
3891 a. Depth shall be a minimum of five feet from the building wall to the inside column face.
3892
3893 b. Height shall be an eight-foot minimum clearance, including suspended signs. The lowest point
3894 on arches shall not extend below seven feet.
3895
3896 c. Openings between piers, columns, or similar supporting elements shall be at least 50% of the
3897 colonnade or arcade facade area.
3898
3899 d. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be
3900 permitted above the colonnade or arcade.
3901
3902 4. Balconies. Balconies shall be open and un-air-conditioned. Balconies may have roofs. Roofed
3903 balconies may be enclosed with screen and may contain privacy partitions. Balconies shall not
3904 project beyond the rear building setback requirement, as applicable. Balconies shall be located
3905 no closer than six feet from the abutting side lot line. Balconies facing a street or dedicated city
3906 parking area shall have a height clearance of ten feet minimum from grade; their decorative or
3907 supporting elements that project from building walls shall have a clearance of seven feet from
3908 grade.
3909
3910 5. Front porches. Front porches shall be un-air-conditioned. may be screened, and shall conform to
3911 the following:
3912
3913 a. Front porches facing a street or dedicated city parking area and serving to meet the minimum
3914 building frontage requirements of Article 4, Chapter 5 shall be a minimum of eight feet in
3915 depth.
3916
3917 b. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be
3918 permitted above front porches.
3919
3920 6. Stoops and landings. Stoops and landings may be roofed or unroofed, and shall maintain the
3921 required minimum building setback, as applicable. However, access to a stoop, whether by stairs,
3922 ramp, or other means, may extend forward of the minimum building setback as applicable, if
3923 approved by the Director but shall not be located less than three feet from the front lot line.
3924
3925 7. Cupolas. When provided, cupola(s) shall have a maximum of 400 square feet in horizontal
3926 dimension and shall be limited to two per building.
3927

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- 3928 8. Garage doors associated with residential uses, when facing the front of the lot, shall be set back
3929 at least 20 feet behind the building line.
3930

3931 **Section 5.8.10. Equipment and Loading Areas**
3932

- 3933 A. For all non-residential and mixed-use developments, air conditioning, heating, and similar equipment
3934 shall be placed on the roof or the ground.
3935

- 3936 1. Air conditioning and heating equipment shall be prohibited from being mounted on the side of a
3937 building.
3938

- 3939 2. Rooftop equipment shall be screened on all sides in a manner consistent with the architectural
3940 design of the building. Such screening shall be at least as high as the highest portion of the
3941 equipment or apparatus being screened.
3942

- 3943 3. Equipment located on the ground shall be located or screened so as not to be visible from any
3944 property line abutting a public street other than an alley when viewed along a line perpendicular
3945 or radial to such property line. Screening shall consist of a wall, fence, plant material, or any
3946 combination thereof. Fences used for screening shall not be constructed of chain link with or
3947 without slats and are encouraged to be designed to appear to be constructed of material the same
3948 as the building, and to incorporate architectural trim features consistent with the building.
3949

- 3950 4. Electric meters and similar panels may be wall-mounted and are subject to the same screening
3951 requirements outlined in subsection c. above. In lieu of screening, the equipment may be painted
3952 to match the color of the building.
3953

- 3954 5. Attic vents and solar panels are exempt from the requirements of this subsection.
3955

- 3956 B. Loading areas that are visible from an abutting property with a residential future land use
3957 classification or that is separated from a property with a residential future land classification by an
3958 alley or a two-lane street shall be screened by a wall that is at least six feet in height, which is
3959 constructed of the same material as the building or is designed to appear to be constructed of material
3960 the same as the building, and that incorporates architectural trim features consistent with the
3961 building, by an earthen berm that is at least six feet in height, or by a combination of wall and berm
3962 that is at least six feet in height.
3963

3964 **Section 5.8.11. Deviations.**
3965

- 3966 A. Deviations from the provisions of this section may be approved by the Director provided that the
3967 deviation will not be contrary to the public interest and will be in harmony with the general intent
3968 and purpose of this section and where either of the following applies:
3969

- 3970 1. Conditions exist that are not the result of the applicant and which are such that a literal
3971 enforcement of the regulations involved would result in unnecessary or undue hardship; or
3972

- 3973 2. Literal conformity with the regulations would inhibit innovation or creativity in design.

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- B. In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Director shall consider include, but are not limited to, the following: site constraints such as shape, topography, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, the effect the requested deviation would have on the community appearance including, but not limited to, consideration of the mass, scale, and other characteristics of a proposed building relative to the characteristics of existing and approved surrounding buildings whether on the same or nearby sites, and the relative visibility and character of equipment or loading areas which are otherwise required to be screened along with constraints on alternative location of such equipment or loading areas. Additionally, the Director shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city.

- C. In determining whether a particular deviation request should be approved because compliance with the regulations would inhibit innovation or creativity in design, the Director approve the request for deviation(s) if the applicant demonstrates that the design of the building or development for which one or more deviations is sought is unique and innovative and further, that the approval of the deviation(s) would enhance such unique and innovative design. Additionally, the Director shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city. For purposes of this section, indicators of unique and innovative design may include, but are not limited to, the following:
 - 1. Architectural details that are unique or that are exceptional in quality by virtue of artistic composition, quality of materials, dimensional attributes, or any combination thereof;
 - 2. Building forms that evoke exceptional expression through use of angularity, curvature, or other means;
 - 3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
 - 4. Other details or forms that preclude visual monotony and are pleasing in aesthetic character.

- D. Requests for deviations and the reasons therefor shall be set forth by the applicant in the application for deviation and shall be accompanied by documentation including sample detail drawings, schematic architectural drawings, site plans, floor plans, elevations, and perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the benefit or at least not to the detriment, of the public interest.

- E. Subject to these standards and criteria, the Director shall approve only the minimum deviation from the provisions of this section necessary to avoid either the unnecessary or undue hardship or the inhibition of innovation or creativity in design. The Director may impose reasonable conditions of approval in conformity with this section. Violation of such conditions and safeguards, when made a part of the terms under which a deviation is granted, shall be deemed a violation of this section and

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4020 shall be enforceable not only by revocation of the deviation, but also by all other remedies available
4021 to the city, including, but not limited to, all code enforcement procedures.

4022

4023 **CHAPTER 9. TEMPORARY USES.**

4024

4025 **Section. 5.9.1. Purpose and applicability.**

4026

4027 A. The purpose of this Section is to ensure all temporary events and activities are located and
4028 coordinated in harmony with the surrounding community. Temporary uses are authorized in this
4029 article as temporary accessory or principal uses for time periods proportionate and appropriate to the
4030 nature of the temporary use. Temporary uses permitted by this article may not be listed as a use in a
4031 particular zoning district. Temporary uses not listed in this article may be permitted through a
4032 temporary use agreement approved by the Director of Community Development

4033

4034 B. All temporary uses and special events approved subject to the standards and requirements set forth
4035 under this article are deemed to be a privilege and not a right, which may be revoked by the city for
4036 failure to comply with any of the provisions of this article or any other local, state, or federal law
4037 governing the event. Approved temporary uses and special events may also be revoked if such
4038 revocation is in the best interest of the city based on emergency, disorder, or other unforeseen
4039 conditions. Private events held on private property shall not require a temporary use permit. Signs
4040 shall be limited to the signs permitted in Section 5.9.10 of this article and shall not be allowed within
4041 the right-of-way.

4042

4043 C. Application for a temporary permit.

4044

4045 1. Temporary use permits shall be coordinated by the Community Development department who
4046 may request reviews from the Fire, Police, Building, and Public Works departments as necessary
4047 to ensure safety.

4048

4049 2. If a temporary use or event is proposed at a public park property, an application must be
4050 submitted to the Parks and Recreation Department along with any applicable fees and proof of
4051 insurance.

4052

4053 3. Private events held on private property shall not require a temporary use permit.

4054

4055 **Section. 5.9.2. Firework, pumpkin, and Christmas tree sales.**

4056

4057 Temporary outdoor sales are prohibited, except as provided here in. Excepted seasonal events involving
4058 outdoor sales of merchandise shall meet all appropriate requirements of the Building Code, Electrical
4059 Code, Fire (Life Safety) Code, and Plumbing Code, particularly regarding temporary sanitary facilities.
4060 Temporary outdoor sales are prohibited unless they have applied for and received all required permits in
4061 compliance with this Subsection. Firework, pumpkin, and Christmas tree sales may be in all nonresidential
4062 zoning districts except the Preservation and Public Zoning Districts subject to the following:

4063

4064 A. Application. A complete application must be submitted to the Department of Community
4065 Development, along with a conceptual site plan.

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- B. Dates and hours of operation:
 - 1. Firework sales may be operated from December 15 through January 1 and from June 1 through July 10;
 - 2. Pumpkin sales may be operated from October 1 through November 5;
 - 3. Christmas tree sales may be operated from November 15 to January 1; and
 - 4. Lots may be open from 8 AM to 10 PM.
- C. Parking and facilities.
 - 1. Temporary sales lots must provide five parking spaces per half acre. A paved parking lot shall not be required.
 - 2. Permission to place one or more tents (up to a total of 425 square feet in size) on the site, provided that the applicant provides proof of fire-retardancy and adequate tie-down measures with the application. Tents larger than 425 square feet shall require a separate tent permit. The location and setback of the tent(s) shall be shown on the conceptual site plan. If a sales trailer is being used in lieu of a sales tent, the sales trailer shall be handicap-equipped and accessible in accordance with the Florida Accessibility Code for Building Construction and ADA requirements and shall be anchored in accordance with all applicable building code standards.
 - 3. Permission to utilize an electric generator on site. A temporary electric pole shall not, however, be authorized by the temporary sale permit. A temporary electric pole shall require a separate permit to be applied for and issued to a licensed electrical contractor.
- D. The Director may approve temporary outdoor seasonal sales in the RML zoning district, if it is determined that such sale would not result in adverse impacts on the surrounding neighborhood. Approval of a season sale in the RML district may include conditions to protect the surrounding neighborhood from adverse impacts.
- E. The applicant shall request inspection by the city of the items authorized pursuant to this Section and shall receive approval thereof prior to beginning the sale activity. Inspection of items authorized pursuant to this Section shall be made by the Community Development and Fire Departments.

Section. 5.9.3. Outdoor display of merchandise.

Unless otherwise permitted, outdoor display of merchandise is prohibited, except on improved property in accordance with the following conditions:

- A. All outdoor display of merchandise for sale, in non-residential districts is permitted with the following conditions:

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- 4112 1. Except in the downtown zoning district, such displays may be no closer than 10 feet to the front
4113 or rear property lines and five feet to side property lines or 15 feet to the side property line on
4114 corner lots.
4115
- 4116 2. Displays may not be in required parking. If such displays are placed on a public sidewalk, the
4117 display shall comply with the following regulations:
4118
- 4119 a. Displays may be placed on the public sidewalk only directly in front of the lawfully existing
4120 business which retails the items being displayed.
4121
- 4122 b. Displays shall be placed on tables, shelves, or racks that are moved indoors during any hours
4123 the business is not open and that do not exceed six feet in height and do not extend more
4124 than two feet onto the public sidewalk.
4125
- 4126 B. Outdoor display of merchandise for sale on vacant property is prohibited, except as permitted for
4127 seasonal events in accordance with Section 5.9.2. or special events in accordance with Section 5.9.10.
4128

4129 **Section. 5.9.4. Garage sales.**

4130 Garage sales may be permitted on a private property in accordance with the following regulations:
4131

- 4132
- 4133 A. Garage sales are permitted to be held for a period not to exceed three days, on the basis of three such
4134 activities per residence per year, not to be held closer than 30 days apart.
4135
- 4136 B. Prior to conducting a garage sale, the person conducting such sale is required to obtain a permit online
4137 from the city website or at the Code Enforcement Division. Such permit shall be posted or otherwise
4138 displayed on the property where the sale is being held to be visible from the street. In the event a
4139 garage sale is conducted without a permit, such sale shall be closed by the Police Department or the
4140 Code Enforcement Division, and shall remain closed until a valid garage sale permit is received from
4141 the city. Garage sale permits shall include authorization for on-site signs and off-site signs in
4142 accordance with applicable portions of the City of Cape Coral Land Development Code. On-site or off-
4143 site garage sale signs shall not be attached to any utility pole, street sign, tree, or other landscaping.
4144
- 4145 C. The purchase of items for resale at a residence, which in essence establishes a residence as a second-
4146 hand store, is hereby prohibited.
4147
- 4148 D. A violation of this Section shall be punishable by a fine of not less than \$75 and not more than \$250.
4149 Each day any violation of any provision of this Section occurs or continues shall constitute a separate
4150 offense. As an alternative, violators may be cited by a Code Enforcement Officer to appear before the
4151 Code Enforcement Special Master. In such event, violators shall be subject to fine(s) not to exceed
4152 \$250 per day for first time violations or not to exceed \$500 per day for repeat violations, as imposed
4153 by the Code Enforcement Special Master pursuant to the City of Cape Coral Code of Ordinances or the
4154 Florida Statutes. A person is subject to arrest if he or she refuses to close down a garage sale for which
4155 no valid permit is in effect.
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4157 **Section. 5.9.5. Temporary construction or field office.**

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- A. Construction trailers in residential zoning districts are subject to the following requirements.
 - 1. Construction trailers shall not be connected to potable water and sewer facilities. If the construction trailer is wired for electricity, the wiring must conform to all applicable city electric codes.
 - 2. The construction trailer must be removed from the site prior to issuance of a certificate of occupancy.
 - 3. No overnight residential use shall be permitted in a construction trailer.
 - 4. Construction trailers must comply with the setback requirements of the zoning district or the site.
 - 5. Construction trailers shall not be larger than 200 square feet.
- B. Construction trailers in non-residential zoning districts are subject to the following requirements.
 - 1. When a construction trailer is used as a temporary office, the trailer must be wired for electricity and must be connected to potable water and sewer facilities, if available. Wiring and plumbing must conform to applicable Electric and Plumbing Codes.
 - 2. The construction trailer must be located at the construction site or an abutting site with the property owner's written permission.
 - 3. The construction trailer must be removed from the site prior to issuance of a certificate of occupancy.
 - 4. No overnight residential use shall be permitted in a construction trailer.
 - 5. Construction trailers must comply with the setback requirements of the zoning district or the site.

Section 5.9.6. Construction staging areas and post disaster debris staging

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- A. Contractor staging for essential public facilities. Contractor staging areas for materials used in construction of essential public facilities are permitted in all zoning districts, subject to the following requirements:
 - 1. The temporary staging area shall serve a project being carried out in the vicinity of the construction staging area;
 - 2. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;

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- 4203
- 4204 3. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through
- 4205 Saturday only;
- 4206
- 4207 4. Fencing required;
- 4208
- 4209 5. No structures other than a permitted construction trailer may be placed on the property; and
- 4210
- 4211 6. No outdoor lighting is permitted for any staging area in a residential zoning district
- 4212
- 4213 B. Construction staging areas. Construction staging areas are a permitted activity in all zoning districts,
- 4214 provided the staging area is on the same parcel where construction activity is authorized by a valid
- 4215 building permit. Construction staging areas on vacant, adjoining, or nearby parcels is prohibited.
- 4216
- 4217 C. Post disaster debris staging areas. Post disaster debris staging areas are allowed in all zoning
- 4218 districts on sites designated by the City for such activity.
- 4219
- 4220 D. Post disaster construction staging. Staging areas for post disaster reconstruction efforts are allowed
- 4221 in all non-residential zoning districts. Post disaster construction staging is allowed in residential
- 4222 zoning districts as a (special exception/conditional) use.
- 4223
- 4224 **Section. 5.9.7. Temporary sales office.**
- 4225
- 4226 A. Temporary sales offices are mobile structures used only for the sale or lease of units within that
- 4227 development. For the purpose of this section, units to be located within the development shall
- 4228 mean residential, non-residential, or mixed use habitable space or leasable floor area, whether
- 4229 occupying all of a building or individual area within a building including residential units,
- 4230 residential or non-residential units, individual units in a multi-unit non-residential development,
- 4231 or freestanding residential or non-residential structures.
- 4232
- 4233 B. Requirements for a temporary sales office. The following requirements must be met prior to the
- 4234 approval of a temporary sales office:
- 4235
- 4236 1. Connection to sewer and water is required. If sanitary sewer and potable water are unavailable
- 4237 to the site, bottled water and portable sanitary facilities may be utilized until such time as
- 4238 sanitary sewer and potable water are available. A temporary sales office shall be connected to
- 4239 such facilities within 90 days of availability or within 90 days of the permitted temporary sales
- 4240 office, whichever is less.
- 4241
- 4242 2. The temporary sales office shall meet the setbacks of the zoning district in which it is located.
- 4243

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- 4244 3. A temporary sales office shall not be used as a place of habitation or abode by any person(s),
4245 and shall not be used or occupied for business, office, or other purpose(s) at any time except
4246 between the hours of 7:00 a.m. and 9:00 p.m.
4247
- 4248 4. A minimum of three paved off-street parking spaces shall be provided for the temporary sales
4249 office.
4250
- 4251 5. The entrance to the site on which the temporary sales office is located shall consist of a city
4252 approved driveway or construction entrance. Any impervious area added for the temporary
4253 sales office shall be subject to review and approval by the city.
4254
- 4255 6. The base of any temporary sales office shall be fully obscured by landscaping and skirting.
4256 Shrubs must be planted on 30-inch centers and have a minimum planted height of two feet.
4257 The type of irrigation, if applicable, must also be provided on the plan. Erosion shall be
4258 minimized and prevented to the extent practicable around any disturbed area.
4259
- 4260 7. The maximum duration of the permit shall not exceed one year. The Director may extend
4261 permits for up to six months each, based upon factors that include:
4262
- 4263 a. Size of the project.
4264
- 4265 b. Number of lots or units in the development remaining to be sold or leased.
4266
- 4267 c. Effect that the extension would have on the surrounding properties.
4268
- 4269 d. Developer's need for an extension and efforts, if any, the developer has put forward
4270 toward completion of the development (e.g., effort to complete construction in a timely
4271 manner, delays beyond the reasonable control of the developer, etc.).
4272
- 4273 8. A temporary sales office shall be removed no later than the date the development is completed
4274 or within 30 days after notice by the city that the application for development has been denied,
4275 whichever is applicable.
4276
- 4277 C. Permit application and submittal requirements. A permit shall be required for a temporary sales
4278 office. In order to obtain a permit for the use of a structure for a temporary sales office, the
4279 applicant shall submit the following to the Department of Community Development:
4280
- 4281 1. A scaled drawing of the site, identifying the location of the temporary sales office with
4282 dimensions. Construction plans shall also be submitted.
4283
- 4284 2. The names of the property owner and the operator of the temporary sales officer. In the
4285 event the operator is different from the property owner, written and notarized consent from

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4286 the property owner must be submitted. Such written consent shall be revocable. In the event
4287 such consent is revoked, the temporary sales office shall be removed within 30 days.

- 4288
- 4289 3. The length of time the temporary mobile sales office is proposed for the site.
- 4290
- 4291 4. The description of potable water and sanitary facilities that will be available for the
4292 temporary office.

4293

4294 D. Inspection by city officials. To ensure compliance with all applicable laws and regulations, the
4295 temporary sales office shall be held open for reasonable inspection, without court order, by
4296 employees or agents of the City of Cape Coral or any other duly authorized governmental agency.

4297

4298 **Section. 5.9.8. Temporary Storage Containers.**

4299

4300 A. Temporary storage containers are prohibited in any zoning district of the city, except as follows:

- 4301
- 4302 1. Residential zoning districts. No more than one temporary storage container per dwelling unit is
4303 permitted in residential zoning districts.

4304

4305 2. Non-residential zoning districts. No more than two temporary storage containers are permitted
4306 in non-residential zoning districts. In the case of multi-tenant non-residential properties, each
4307 business or tenant may have a temporary storage container.

4308

4309 3. This section is not intended to restrict the storage or location of temporary storage
4310 containers on the premises of a business which is lawfully engaged in the sale, rental, or
4311 distribution of such containers so long as the containers are on the property of such business
4312 as "merchandise" and not for temporary storage of items or goods.

4313

4314 4. The provisions of this section shall not apply to prohibit or restrict the location of temporary
4315 storage containers on any property for which a valid City of Cape Coral building permit has
4316 been issued and is in effect provided that the construction on the property has not been
4317 abandoned or allowed to lie idle in violation of Article 5-2 of the City of Cape Coral Code of
4318 Ordinances.

4319

4320 B. General Requirements:

- 4321
- 4322 1. No temporary storage container may be placed in one or more parking spaces if the required
4323 number of parking spaces is reduced below the minimum number of spaces required for the
4324 site.

4325

4326 2. No temporary storage container shall block or reduce access to fire lane(s), handicapped
4327 parking area(s), or drainage facilities or structures, including swales and catch basins.

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- 4329 3. Temporary storage containers shall not be placed in an easement or in any area designated
4330 as a buffer.
4331
- 4332 4. The maximum size of temporary storage containers shall not exceed ten feet in width, ten
4333 feet in height, or 40 feet in length.
4334
- 4335 5. Non-residential zoning districts. Temporary storage container permits are valid for 30 days.
4336 A maximum of two temporary storage container permits may be issued for a property or, in
4337 the case of multi-use or multi-unit properties, for each business or commercial enterprise
4338 located on the property in any calendar year. Temporary container permits may run
4339 consecutively without any minimum period required to elapse between the issuance of
4340 permits.
4341
- 4342 6. Residential zoning districts. Temporary storage container permits are valid for seven days. A
4343 maximum of two temporary storage container permits may be issued in any calendar year.
4344 Temporary container permits may run consecutively without any minimum period required
4345 to elapse between the issuance of permits. No dwelling unit shall utilize a temporary storage
4346 container for more than 14 days in any 12-month period.
4347

4348 **Section 5.9.9. Temporary Habitable Structures**
4349

- 4350 A. Purpose and intent. The purpose of this ordinance is to provide a means by which residents,
4351 business owners, governmental agencies, and medical facilities are able to live and conduct
4352 business on the same site as their damaged structure using temporary housing and temporary
4353 business structures. When disasters result in significant destruction rendering homes and
4354 businesses uninhabitable, temporary housing and temporary business structures will provide
4355 residents and businesses with the ability to quickly resume normal activities during the restoration
4356 of their permanent structures.
4357
- 4358 B. Definitions. Terms used in this subsection shall have the meanings as defined in Article 11,
4359 Definitions, unless the context clearly indicates or requires a different meaning.
4360
- 4361 C. Declaration of habitable structure emergency. Following a disaster, the city shall evaluate the
4362 effect of the disaster on the public health, safety, and welfare. If the City Council finds that the
4363 disaster has negatively affected residential housing or business structures in the city by a
4364 significant degree, the City Council may, by a majority vote, declare the existence of a habitable
4365 structure emergency. Upon the declaration of a habitable structure emergency by vote of the
4366 City Council, the provisions of this subsection shall become effective. The habitable structure
4367 emergency shall identify the disaster which created the emergency situation, and may be
4368 declared for either a specified period of time or an indefinite period of time. If the emergency is
4369 for an indefinite period of time, the emergency shall continue until City Council, by a majority
4370 vote, terminates the habitable structure emergency.
4371
- 4372 D. Habitable structure emergencies. During a habitable structure emergency, the city will allow, in
4373 accordance with the provisions set forth herein, the use of temporary structures. Temporary
4374 residential structures and temporary business structures must be approved by the city with a

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4375 temporary placement permit. Application and issuance criteria for a temporary placement permit
4376 are as set forth below.
4377

4378 E. Temporary business structures may be used for business owners to provide a means for a business
4379 to remain open during the time the permanent business structure is being repaired or replaced.
4380 Temporary business structures may be used to provide temporary facilities for governmental uses,
4381 critical public facilities, charitable, religious, or educational institutions that have been rendered
4382 uninhabitable. The regulations for temporary business structures shall apply to temporary business
4383 structures used for governmental uses, critical public facilities, charitable, religious, or educational
4384 institutions. For these institutions, the habitable structure regulations shall apply; however, the
4385 Building Official may waive any regulations when strict enforcement may preclude them from
4386 carrying out their normal or emergency functions. Critical facilities shall be limited to the following:
4387

- 4388 1. Federal, state, regional, or local government facilities;
- 4389
- 4390 2. State, county, or local emergency operations centers;
- 4391
- 4392 3. Police, fire, and emergency medical facilities;
- 4393
- 4394 4. Radio and television stations;
- 4395
- 4396 5. Public, semi-public, and privately-owned utilities;
- 4397
- 4398 6. Hospitals, emergency medical care facilities, infusion centers, dialysis centers, physician's
4399 offices; and
- 4400
- 4401 7. Nursing homes and assisted living facilities.
4402

4403 F. Temporary placement permit. Following the declaration of a habitable structure emergency, a
4404 property owner may apply for a temporary placement permit (TPP) to locate onsite while the
4405 permanent structure is being repaired or rebuilt. A temporary placement permit (TPP) may be
4406 considered by the Building Official when the following criteria are met:
4407

- 4408 1. The existing permanent habitable structure has been determined to be uninhabitable as the
4409 result of a disaster by inspection of the city Building Official;
- 4410
- 4411 2. The property owner or occupant of a damaged structure desires to locate in a temporary
4412 residential or business structure; and
- 4413
- 4414 3. A habitable structure emergency must be in effect at the time of application.
4415

4416 G. Applications for temporary placement permits.

- 4417
- 4418 1. Application forms and required fees.
4419

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- 4420 2. The following permits are required prior to application for a TPP:
4421
4422 a. City permits for hook-up to electric, potable water, and wastewater utilities; and
4423
4424 b. A State Department of Health or State Department of Environmental Protection permit
4425 authorizing the connection of the temporary residence to an onsite or small domestic
4426 wastewater treatment system.
4427
- 4428 H. Time limits. Temporary structures may be located for a period not to exceed 30 days. At the end
4429 of that 30-day period, if no application has been filed, the temporary habitable structure must
4430 be immediately removed from the site. If an application has been filed within the 30-day time
4431 period, the temporary habitable structure may remain in place until the TPP is either approved
4432 or denied. Once approved, the temporary habitable structure may remain in accordance with the
4433 TPP. If denied, the temporary structure shall be removed within five days from the date of denial.
4434
- 4435 I. Terms of use of temporary habitable structures. Applicants for a temporary habitable structure
4436 shall be subject to the following:
4437
- 4438 1. Except as otherwise provided herein, temporary structures shall not be occupied until such
4439 time as a valid TPP has been issued and is in effect for the site.
4440
- 4441 2. Connection to sanitary sewer and potable water, or onsite water and wastewater facilities,
4442 and an external electrical system are required within 20 days of issuance of the TPP.
4443 Inspections for such connections shall be called into the city within two days of completion
4444 of each connection. Electrical and plumbing connections must be done by electricians or
4445 plumbers licensed to do business in the City of Cape Coral.
4446 If there is no electricity to the site due to a power outage, a generator may be used. Upon
4447 restoration of electricity to the property, connection to the local power grid must be made
4448 within 24 hours of power restoration.
4449
- 4450 3. An application for a building permit is required within three months from the date of
4451 issuance of the TPP for temporary residential structures or within six months for temporary
4452 business structures. Failure to apply for a building permit within the required time shall deem
4453 the TPP revoked pursuant.
4454
- 4455 4. If a building permit application has not been submitted within the required time-frames, an
4456 applicant may petition City Council for relief from the time restrictions of this subsection.
4457 City Council shall determine whether the failure to apply for a building permit is due to good
4458 cause shown by the applicant. If City Council denies the request for relief, the temporary
4459 structure shall be removed from the site within ten days from the date of denial, or at the
4460 end of the initial three-month period for temporary residential structures, or at the end of
4461 the initial six-month period for temporary business structures, whichever is later.
4462
- 4463 5. Temporary habitable structures with a TPP may be used until the earlier of: 1) completion of
4464 the rehabilitation or reconstruction of the damaged structure; or 2) until such time as the

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4465 owner or occupants of the damaged structure are established in a permanent structure at
4466 another location.

4467

4468 6. Occupants must comply with all mandatory hurricane evacuation requirements.

4469

4470 J. Temporary structures. Temporary habitable structures must comply with the following:

4471

4472 1. Temporary residential structures may consist of a recreational vehicle or a travel trailer.
4473 Temporary business structures may consist of recreational vehicles, travel trailers, or mobile
4474 offices. At the discretion of the Building Official, additional types of temporary business
4475 structures may be allowed, consistent with applicable federal, state, and local regulations and
4476 the provisions of this ordinance.

4477

4478 2. Must meet all applicable National Fire Protection Association and Life Safety codes and
4479 regulations as well as all applicable state and local requirements for tie-downs.

4480

4481 3. Shall contain plumbing (both water and wastewater) and electrical connections and shall be
4482 capable of being hooked up or attached to external plumbing and electrical systems. Temporary
4483 residential structures shall contain a kitchen capable of being hooked up or attached to external
4484 plumbing and electrical systems. Requirements for temporary business structures shall be
4485 based upon the proposed use.

4486

4487 4. Shall meet the Florida Accessibility Code for building construction amenities.

4488

4489 L. Placement of temporary habitable structures. The following site considerations are required for
4490 placement of a temporary habitable structure:

4491

4492 1. Temporary residential structures may be anywhere on the site of the existing permanent
4493 residence; however, no a temporary residence is allowed within road rights-of-way or
4494 drainage or utility easements. The city may waive any development regulations regarding lot
4495 areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
4496 temporary residential structures.

4497

4498 2. Where more than one existing permanent residence has been rendered uninhabitable, the
4499 Building Official may allow up to the number of damaged permanent residences or residential
4500 units on the site. Such determination shall be based upon consideration of life, health, and
4501 safety requirements.

4502

4503 3. For temporary business structures:

4504

4505 a. Temporary business structures may be anywhere on the parcel of the existing business;
4506 however, temporary business structures are not allowed within road rights-of-way or
4507 drainage or utility easements. The city may waive any development regulations regarding

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- 4508 lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
4509 temporary business structures.
- 4510
- 4511 b. Temporary business structures may be on property adjacent to the permanent business
4512 structure if a notarized, written consent from the property owner is submitted at the
4513 time of application for a TPP.
- 4514
- 4515 c. The establishment of an emergency response team center on a parcel containing a
4516 business does not necessarily preclude the placement of one or more temporary business
4517 structures on the same parcel.
- 4518
- 4519 d. Parking for a temporary business structure shall be provided based upon the square footage
4520 of the temporary business structure, including handicapped parking. However, a minimum
4521 of two handicapped parking spaces must be provided.
- 4522
- 4523 e. The entrance to the site shall have a city approved driveway or construction entrance.
4524 Any impervious area added for the temporary business structure shall be subject to
4525 review and approval by the city.
- 4526
- 4527 f. Additional conditions or restrictions may be placed on a temporary business structure as
4528 a condition of issuance in areas including, but not limited to, the following:
- 4529 i. Hours of operation;
- 4530 ii. Traffic control and access;
- 4531 iii. Lighting; and
- 4532 iv. Noise control.
- 4533
- 4534 M. Issuance and revocation. The Building Official may revoke a TPP upon finding that any of the
4535 following has occurred:
- 4536
- 4537 1. Failure to connect to water, sewer, and electrical within 20 days of the receipt of the TPP.
- 4538
- 4539 2. If an application for a building permit has not been submitted within required time from the
4540 date of receipt of the TPP, or relocation has not occurred before the time of expiration of the
4541 TPP, or, if a building permit later expires.
- 4542
- 4543 3. If, upon inspection by the Building Official, a temporary residence is not in compliance with
4544 the requirements of this subsection.
- 4545
- 4546 4. Failure to evacuate temporary residence during mandatory evacuation orders.
- 4547
- 4548 5. Upon revocation of a TPP, the temporary residence must be vacated and the temporary
4549 residence removed within five days of revocation. Failure to vacate or remove the temporary
4550 residence constitutes a violation subject to the penalty imposed herein.
- 4551
- 4552 N. Extensions and expiration of temporary placement permits.

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1. Residential TPPs shall be valid for six months from the date of issuance. The Building Official may, for good cause shown, issue up to two extensions for six months each, for an 18-month maximum period of validity from the date of issuance.
2. Non-residential TPPs shall be valid for nine months from the date of issuance. The Building Official may, for good cause shown, issue up to two extensions for six months each, for a 21-month maximum period of validity from the date of issuance.
3. All applications for extensions of time must be submitted prior to the date of expiration of the current TPP.
4. Any further extensions after the second extension and maximum time period may not be issued by the Building Official: however, applicants may submit a request to City Council for their approval of any further extension of time for the TPP.
5. Factors to be considered by the Building Official or the City Council in determining whether to grant an extension of time of the TPP shall include:
 - a. The ability of the property owner or occupant of the temporary residential or business structure to secure permanent quarters; and
 - b. Any hardship that, in the opinion of the Building Official or City Council, as applicable, would warrant a further extension of the TPP.
6. Upon the, expiration of a TPP, a temporary residence or business structure must be removed or placed in proper storage on the property within 30 days. Failure to remove or properly store the temporary residence or business structure constitutes a violation subject to the penalty imposed herein.
7. Termination of temporary habitable structure. Once an uninhabitable structure has been issued a certificate of occupancy or certificate of use for a new or rehabilitated residence, business, or institutional facility, the TPP shall be deemed to be terminated. A temporary residential or business structure must then be removed or placed in proper storage on the property within 30 days. Failure to remove or properly store the temporary residence or business structure constitutes a violation subject to the penalty imposed herein.
8. Penalty. Any violation of the provisions of this subsection shall be subject to a \$500 fine. Each day of violation shall constitute a separate offense and shall be punishable as such.

Section. 5.9.10. Special events.

- A. Permit required. The following types of events shall require a permit:

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4641
1. An event expected to draw 500 or more persons at any session, as participants or spectators, which is proposed to be held on public property; or
 2. An event expected to draw less than 500 persons at any session as participants or spectators, which is proposed to be held on public property, if a street closing is required; or
 3. An event expected to draw 500 or more persons at any session as participants or spectators, which is proposed to be held on private property; if said participants or spectators will occupy adjacent public streets or public property during the event.
- B. An applicant may apply for a permit to sponsor a special event in the city by submitting the following documents to the Department of Parks and Recreation:
1. A completed, signed, and notarized application shall be submitted no less than 60 days prior to the opening of the event. Exceptions to the 60-day requirement may be approved by the Director of Parks and Recreation, based upon the size, duration, and nature of the event. The city reserves the right to verify the applicant's previous history of sponsoring special events with other jurisdictions.
 2. A non-refundable application and processing fee of \$40.
 3. A \$250 refundable clean-up deposit in the form of either cash or certified check payable to the City of Cape Coral. The property shall be cleaned within 48 hours of the close of the event and returned to substantially the same condition as just prior to the start of the event, or better. The clean-up deposit will be refunded to applicant upon satisfactory inspection of the property, by the city, after the event closes. If, within 48 hours after the close of the event, the property is not returned to substantially the same condition as prior to the start of the event, or better, the city, in its sole discretion, may utilize the clean-up deposit to do so and refund the remainder, if any, to the applicant.
- C. A tent may be erected for a special event for a maximum of five days. Any tent over 900 square feet will require a fire inspection.
- D. Insurance requirements.
1. Certificates of insurance for all properties used for the event must be submitted to the Parks and Recreation Department for approval by the City Risk Manager no less than 21 days prior to the event.
 2. Applicants and vendors shall have commercial or general liability insurance, including coverage for independent contractors, premises and operations, contractual liability, products and completed operations, personal injury, and property damage. Insurance coverage shall be no less than \$1,000,000 combined single limit for bodily injury and property damage and no less than \$1,000,000 for liquor liability, if applicable.

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- 4642 3. Vendors shall also have motor vehicle liability insurance for any motor vehicle of no less than
4643 \$1,000,000 and workers' compensation coverage, as required by statute.
4644
- 4645 4. The City of Cape Coral shall be named as additional insured. Certificates of insurance shall show
4646 the City of Cape Coral as the certificate holder.
4647
- 4648 E. In determining whether a permit shall be issued, the Director of Parks and Recreation, shall consider
4649 certain criteria including:
4650
- 4651 1. The size, duration, and nature of the event;
4652
- 4653 2. Previous history, if any, of organizing events within Lee County and whether said events created
4654 hazards or safety situations;
4655
- 4656 3. Other events previously scheduled during the same time period within the city;
4657
- 4658 4. If the applicant has been adjudicated guilty of violating any provision of this Section, said
4659 adjudication may constitute grounds for denial of future special events permits by the city; and
4660
- 4661 5. The Director of Parks and Recreation, may, in his or her sole discretion, deny the applicant a
4662 permit for the special event within the City of Cape Coral.
4663
- 4664 F. Special events shall be held in accordance with the following:
4665
- 4666 1. All applicable city ordinances and building, fire, and electrical codes shall be complied with.
4667
- 4668 2. Most events shall require off-duty City of Cape Coral police officers to be hired for the duration of
4669 any event to include one hour before opening and one hour after closing. The Police Chief, shall
4670 determine the number of officers required, if any, based upon the size and nature of the event
4671 and past experience with similar events. The cost for the off-duty detail shall be set using the
4672 present rate charged by the Police Department which shall be paid by the applicant prior to the
4673 issuance of the permit. All applicants must comply with any rules or regulations imposed by the
4674 Police Chief, which are consistent with this Section.
4675
- 4676 3. Most events shall require off-duty City of Cape Coral firefighters or paramedics, to be hired for
4677 the duration of any event to include one hour before opening and one hour after closing. The Fire
4678 Chief, shall determine the number of firefighters or paramedics required, if any, based upon the
4679 size and nature of the event and past experience with similar events. The cost for the off-duty
4680 detail shall be set using the present rate charged by the Fire Department which shall be paid by
4681 the applicant prior to the issuance of the permit. All applicants must comply with any rules or
4682 regulations imposed by the Fire Chief, which are consistent with this Section. In the event the Fire
4683 Chief determines that special equipment such as all-terrain vehicles, trailers, fireboats, or fire and
4684 rescue assets, and appropriate personnel for the special equipment are necessary, the city
4685 reserves the right to request reimbursement for all or part of the discretionary cost from the
4686 applicant.
4687

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- 4688 4. No open flame or other device emitting flames or fire shall be used in any tent or air supported
4689 structure while open to the public.
4690
- 4691 5. All equipment including, but not limited to, tents, stages, amusement rides, utility areas, ingress
4692 and egress locations, and cooking areas shall be inspected and approved by city fire inspectors or
4693 state officials, if applicable, prior to the opening of the event. If applicable, inspection certificates
4694 and annual permits, as required by the State of Florida, shall be submitted to the city prior to the
4695 opening of the event. All equipment and amusement rides, other than those which are patron-
4696 operated or controlled, shall only be operated by persons over 18 years of age who are employed
4697 by the applicant and who are thoroughly familiar with the operation of said equipment and
4698 amusement rides. The operator of such equipment and amusement rides shall be in the
4699 immediate vicinity of the operating controls at all times during the operation of the equipment
4700 and amusement rides and no unauthorized person shall be permitted to handle the controls
4701 during said operation.
4702
- 4703 6. Special event signs shall be permitted in accordance with the Land Development Code, Article 7.
4704
- 4705 7. Any person, entity, group, or organization engaging in speech, expression, or assembly, which is
4706 protected by the First Amendment of the United States Constitution or by Article I, Section 4 of
4707 the State of Florida Constitution, may do so during a Special Event, subject to the following
4708 reasonable time, place, and manner regulations.
4709
- 4710 a. The Director of Parks and Recreation shall have the authority to designate one or more areas
4711 during any special event for specific activities and to prohibit other activities within
4712 designated areas. The Director of Parks and Recreation shall post designated areas when such
4713 posting is appropriate.
4714
- 4715 b. If sound amplifying equipment is present, it shall be in accordance with a permit issued per
4716 Section 5.9.3 Outdoor Entertainment Event. The Director of Parks and Recreation shall
4717 establish one or more designated areas on public property within the area of the special event
4718 where such amplified sound may occur. If sound amplifying equipment is present on private
4719 property at the special event, the Director of Parks and Recreation may establish one or more
4720 designated areas on public property within the area of the special event where other
4721 amplified sound may occur. If amplified sound is not present on public or private property
4722 during the special event, all amplified sound shall be prohibited; however, nothing in this
4723 regulation shall serve to prohibit protected speech, expression, or assembly utilizing non-
4724 amplified, reasonable sound.
4725
- 4726 c. The Director of Parks and Recreation shall be responsible for the provisions of this Section,
4727 department rules and regulations, and city ordinances. No action shall be taken to enforce this
4728 Section until a warning to cease such a violation has been issued by a person authorized to
4729 enforce this Section and the violator continues such violation.
4730
- 4731 8. No person shall be permitted into, or remain on, private property covered by any special event
4732 permit for an event open to the public without the consent of the permittee.
4733

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- 4734 9. If a special event is open to the public only upon a payment of an entry fee or charge, no person
4735 shall be permitted into the special event without first paying the entry fee or charge.
4736
- 4737 10. No person shall unreasonably hamper, obstruct, impede, or interfere with any person, entity,
4738 group, or organization hosting a permitted special event.
4739
- 4740 G. Order to cease operation. If the Director of the City of Cape Coral Parks and Recreation Department,
4741 determines that proper provisions have not been made for the protection of the public health, safety,
4742 or welfare, he or she may issue an order to cease operating the special event until satisfactory
4743 corrective action has been taken.
4744
- 4745 H. All requirements of this Section are subject to modification or waiver by the City Council based upon
4746 the size, duration, nature of the event, and the city's involvement.
4747
- 4748 I. Intentional underestimation of the expected number of persons attending the event or failure to
4749 comply with any provision of this Section, shall constitute a violation of this Section, and shall subject
4750 the applicant to the code enforcement provisions and procedures of the City of Cape Coral Code of
4751 Ordinances including any and all provisions that allow the city to seek relief as otherwise provided by
4752 law.
4753
- 4754 J. Penalty. A violation of this Section shall be punishable by a minimum fine of \$100 and a maximum fine
4755 of \$500, in addition to the taxation of any court costs, or imprisonment for a term not to exceed 60
4756 days, or by both a fine and imprisonment.
4757

4758 **Section 5.9.11. Temporary Off-Site Vehicle Sales.**
4759

4760 The display of vehicles, including, but not limited to, automobiles, trucks, vans, recreational vehicles
4761 such as camping trailers, motorcycles and recreational terrain vehicles, and water craft such as boats,
4762 jet skis and wave runners, displayed for the purpose of sale, lease, trade or rental, shall be permitted
4763 at an off-site location (that is, on an improved property that is not the approved location of the
4764 business).
4765

4766 A. Temporary Off-Site Vehicle Sales shall adhere to the following requirements:
4767

- 4768 1. The commercial establishment seeking the temporary sale permit must have the written
4769 permission of the owner, or an authorized representative of the owner, of the property on
4770 which the temporary sale will be conducted. The written permission shall state that, as a
4771 condition of the city's issuance of a permit for the temporary sale, the property owner agrees
4772 to be responsible for any damage to the city's right-of-way or utility systems as a result of the
4773 sale and that any such damage shall be repaired at the expense of the property owner. In
4774 addition, such written permission shall also state that, in consideration of the city's issuance of
4775 the permit, the property owner shall hold the city harmless from any claim, loss, damage, or
4776 cause of action that arises because of the temporary sale or the issuance of the permit
4777 therefore, including any loss or damage to the owner's property or improvements thereon. Such
4778 written permission shall have a notarized signature and shall be filed with the Department of
4779 Community Development.

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- 4780
4781 2. The duration of any such temporary sale shall not exceed five consecutive days.
4782
4783 3. The property on which the off-site sale is conducted shall not have been used for temporary
4784 off-site sales for more than six occasions in the preceding one-year period.
4785
4786 4. Temporary sales shall only be conducted between the hours of 8:00 a.m. to 9:00 p.m.
4787
4788 5. The display of vehicles and the operation of the temporary sale shall not interfere with the
4789 normal parking and traffic circulation of the business(es) located on the site.
4790
4791 6. The temporary off-site vehicle sales permit shall, at all times during the permitted time period
4792 authorized for the sales, be displayed on the site upon which such sales are being conducted.
4793
4794 7. No temporary sale shall begin until a permit therefore has been approved and issued by the city
4795 and all fees are paid in accordance with the city's adopted fee schedule. Prior to the issuance
4796 of a temporary sale permit, a complete application must be submitted to the Department of
4797 Community Development, along with a conceptual site plan. In addition to the proposed site
4798 layout and setbacks, the conceptual site plan shall address vehicular traffic and parking
4799 measures, fire protection measures, sanitary facilities and lighting and areas of electric needs.
4800 The temporary sale permit shall include, as applicable:
4801
4802 a. The right to erect one sign or banner, a maximum of 32 square feet in size, or two such signs
4803 or banners for properties having frontage on more than one street. In lieu of such sign(s) or
4804 banner(s), the applicant may display an inflatable object in accordance with Article 7 of this
4805 code. The applicant shall include with the application sign details such as the placement of
4806 the sign and anchoring or tie-down measures. The placement and anchoring of the means
4807 of advertisement shall not interfere with the visual safety of motoring traffic.
4808
4809 b. Permission to place one or more tents (up to a total of 425 square feet in size) on the site,
4810 provided that the applicant provides proof of fire-retardancy and adequate tie-down
4811 measures with the application. Tents larger than 425 square feet shall require a separate
4812 tent permit. The location and setback of the tent(s) shall be shown on the conceptual site
4813 plan. If a sales trailer is being used in lieu of a sales tent, the sales trailer shall be handicap-
4814 equipped and accessible in accordance with the Florida Accessibility Code for Building
4815 Construction and ADA requirements and shall be anchored in accordance with all applicable
4816 building code standards.
4817
4818 c. Permission to utilize an electric generator on site. A temporary electric pole shall not,
4819 however, be authorized by the temporary sale permit. A temporary electric pole shall
4820 require a separate permit to be applied for and issued to a licensed electrical contractor.
4821
4822 d. d. The applicant shall request inspection by the city of the items authorized under this
4823 section and shall receive approval thereof prior to beginning the off-site sale activity.
4824 Inspection of items authorized pursuant to subparagraphs a. through c. shall be made by

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4825 the Department of Community Development. Items authorized pursuant to subparagraphs
4826 b. and c. shall also be made by the Fire Department.

4827
4828 B. Any other outdoor display on improved property must be approved by City Council and is subject
4829 to review annually at the discretion of Council, except that the City Manager may approve requests
4830 for temporary displays of no longer than five days duration no more than two times per calendar
4831 year for any location or applicant when he or she is satisfied that the request would be in keeping
4832 with the harmony of the zoning district and that it would violate none of the ordinances of the City
4833 of Cape Coral.

4834
4835 **Section. 5.9.12. Tents, for other than Special Events.**

4836
4837 A tent may be permitted to be erected for a for a maximum of five days for an event. Any tent over 900
4838 square feet will require a fire inspection.

4839
4840 **Section. 5.9.13. Other events not named.**

4841
4842 A person desiring to hold any temporary event, not listed herein, shall contact the Community
4843 Development department regarding the necessity of a permit and any additional permissions that may be
4844 required.

4845
4846 **Chapter 10. - SPECIFIC USE REGULATIONS**

4847
4848 **Section. 5.10.1. Purpose and applicability.**

4849
4850 The uses listed in this chapter are deemed to be appropriate uses when developed and operated in
4851 accordance with the requirements listed within each Section. Approval may be granted administratively
4852 as long as the requirements are met and maintained. The applicant shall provide all documents necessary
4853 to prove that the requirements are met prior to receiving approval to operate and on an ongoing basis as
4854 required for the specific use.

4855
4856 **Section. 5.10.2. Craft breweries, distilleries, and wineries.**

4857
4858 A. Requirements. All craft breweries, distilleries, or wineries which produces alcoholic beverages for
4859 consumption on premise or provide retail sales, shall comply with the following requirements:

4860
4861 1. The business owner shall submit semi-annual production records to the Department of
4862 Community Development for all alcohol and nonalcohol products produced within the
4863 establishment.

4864
4865 2. All mechanical equipment used in the alcohol production process shall be behind a wall or fence
4866 that separates the equipment from any property line abutting a public street other than an alley
4867 when viewed along a line perpendicular or radial to such property line. The wall or fence shall be
4868 opaque and have a minimum height of six feet.

4869

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- 4870 3. Loading and unloading areas shall be provided to the side or rear of the building. Loading and
4871 unloading areas shall not be along the front of the building.
4872
- 4873 4. Spent or used grain or similar wastes may be placed outdoors for a period not to exceed 24 hours.
4874 The temporary stockpiling for spent or used grain shall be:
4875
- 4876 a. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the
4877 stockpiled spent grains on the property and the distance of the stockpiled grains from the
4878 property lines and the building containing the artisan brewery, distillery, or winery;
4879
- 4880 b. Located only along the side or rear of the building; and
4881
- 4882 c. Fully enclosed in containers that are behind an opaque wall or fence. The wall or fence shall
4883 have a minimum height of six feet. Cargo containers and tractor trailers shall not be utilized
4884 for the temporary stockpiling of spent or used grains even if the cargo containers and tractor
4885 trailers are behind an opaque wall or fence.
4886
- 4887 B. Waiver of requirements.
4888
- 4889 1. Permitted and Conditional Uses.
4890
- 4891 To encourage the repurposing of existing buildings in the NC or SC districts, any craft brewery,
4892 distillery, or winery that is approved as a permitted use, the provisions of this Section may be
4893 waived in part or in their entirety by the Director for the purpose of spurring economic
4894 development based on the criteria contained in Subsection 2.
4895
- 4896 2. Criteria. In determining whether to waive one or more of these standards the Community
4897 Development Director shall utilize the following criteria:
4898
- 4899 a. The visibility of the mechanical equipment and loading areas from any public street(s).
4900
- 4901 b. The proximity and visibility of the mechanical equipment and loading areas from existing
4902 residential development.
4903
- 4904 c. The existence of site conditions that are not the result of the applicant and which are such
4905 that a literal enforcement of the regulations involved would result in unnecessary or undue
4906 hardship.
4907
- 4908 d. The effect other regulations would have on the proposed development or other locational
4909 factors that may make compliance with this Section impossible or impracticable.
4910
- 4911 e. The annual production of alcohol anticipated to be produced by the establishment.
4912
- 4913 f. The size and extent of the equipment requiring screening.
4914
- 4915

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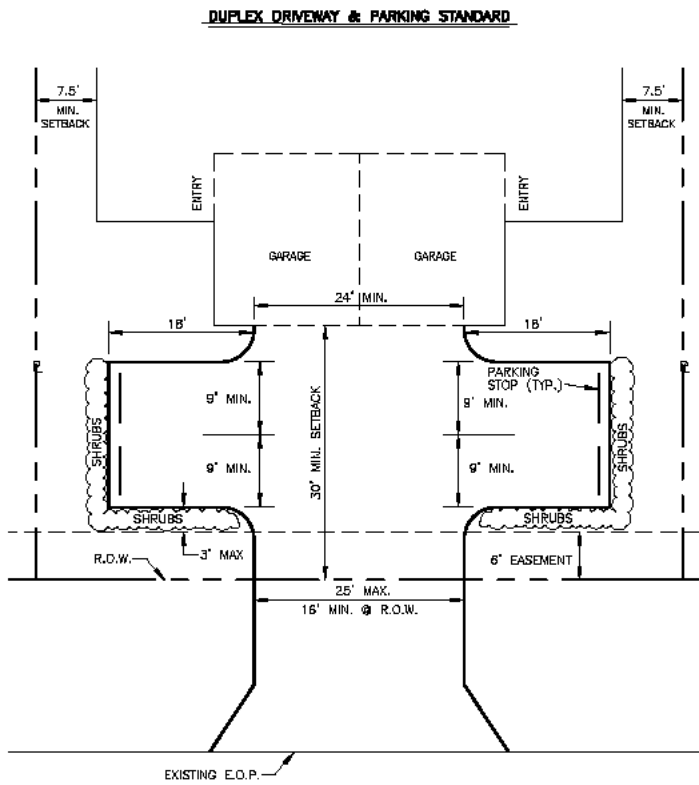
4916 **Section. 5.10.3. Duplexes.**

4917
4918 ~~In RML zoning districts a duplex~~ All dD duplexes must meet the following conditions:

4919
4920 ~~A. Both units must be served by a single, circular driveway to avoid residents backing into streets.~~

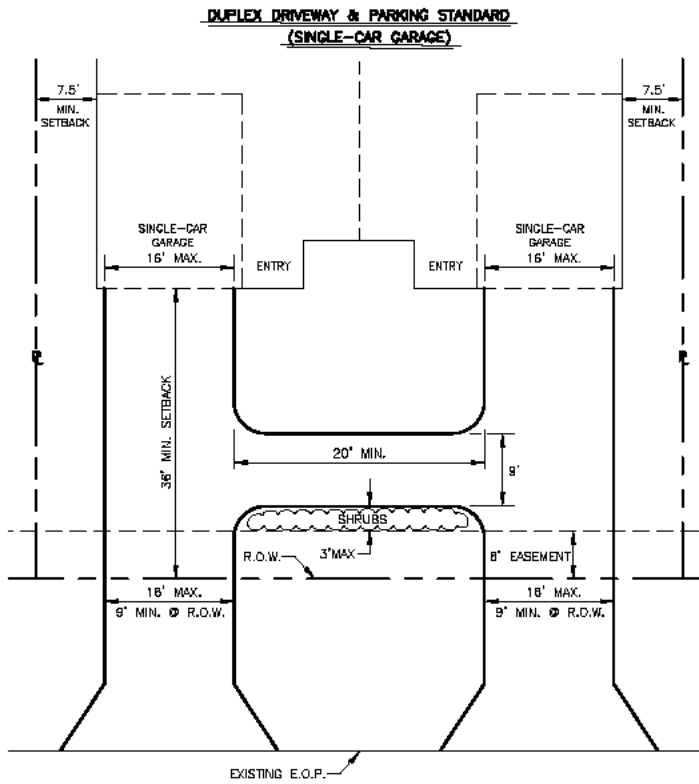
4921 A. All duplexes on parcels less than 20,000 square feet in area must be served by public water and sewer.

4922
4923 B. All duplex parking areas and driveways shall conform to one of the following Duplex Driveway and
4924 Parking Design Standards:



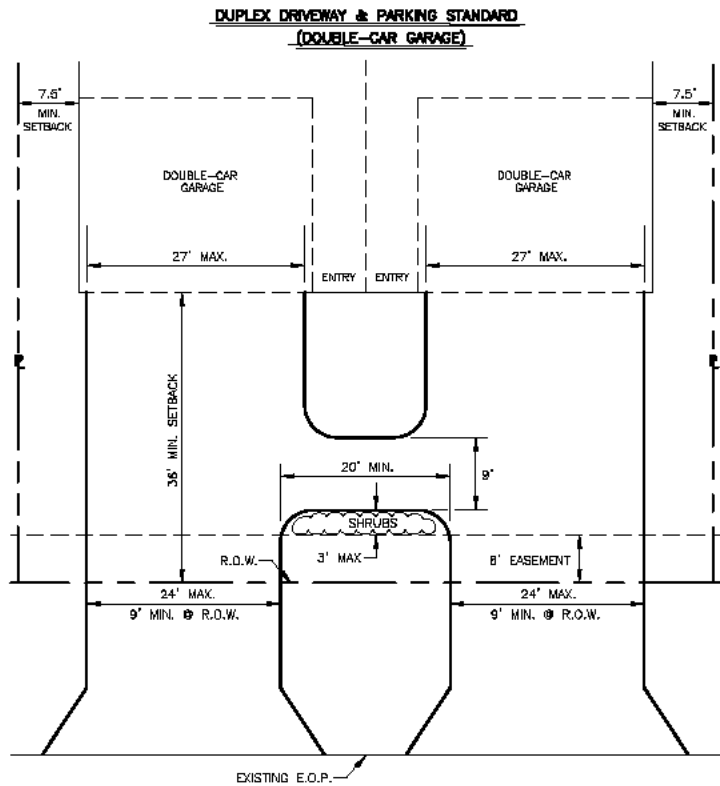
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C. Duplex parcels may not be sold, subdivided, or conveyed by deed into individually owned parcels or dwelling units.

B.D. Landscaping shall be provided at a rate of two trees and six shrubs per each 2,500 square feet of the lot. A portion of the required landscaping shall be placed in the locations shown on the Duplex Driveway and Parking Design Standards.

~~C.E. Attached residential developments~~ All duplexes shall incorporate three of the following design elements into each dwelling unit:

1. Dwelling entry as the primary façade feature;
2. Garage door recessed from the front façade, a preferred minimum of four feet;
3. Horizontal eaves broken up with gables, projection, and articulation;
4. Projecting eaves and gables, related to building massing;
5. Building massing and roof form which articulate individual unit definition;
6. Offset of four feet where two garage doors are adjacent to each other; or

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4952 7. Projections and decorative elements, such as trellises, for visual interest.

4953
4954 F. Duplexes that have at least one dwelling unit entry on the side of a duplex shall not be required to
4955 provide a turn-around or a bump-out driveway on a 2-lane street.

4956
4957 **Section. 5.10.4. - Home occupations.**

4958
4959 Home occupations shall only be allowed as an accessory use to a residential use, provided the following
4960 conditions are met:

- 4961
4962 A. All home occupations operated in or from a residence shall comply with federal, state, and county
4963 rules and regulations, city license regulations specified herein, and any other applicable ordinances of
4964 the City of Cape Coral.
- 4965
4966 B. No person other than members of the immediate family may be employed for a salary, commission
4967 or upon any other remunerative basis.
- 4968
4969 C. No condition shall be permitted which tends to cause or increase the fire hazard to the residence,
4970 such as storage of paints or other flammable materials in excess of normal family use.
- 4971
4972 D. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display
4973 of materials be visible from the outside of the structure.
- 4974
4975 E. No home occupation shall occupy an area greater than 10% of the living area of the structure.
- 4976
4977 F. The home occupation shall not generate pedestrian or vehicular traffic beyond that which is
4978 reasonable to the district in which it is located and it shall not involve the use of commercial vehicles
4979 for delivery of materials to or from the residence.
- 4980
4981 G. The appearance of the structure shall in no way be altered for the conduct of the home occupation
4982 within the structure nor shall the conduct be such that the structure may be recognized as serving a
4983 non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations,
4984 audible or visible interference in any radio or television receiver off the premises, or cause fluctuations
4985 in the electric voltage line off the premises.
- 4986
4987 H. No business operated under a fictitious name shall be issued a license to operate under this Section.

4988
4989 **Section. 5.10.5. RV resorts**

- 4990
4991 A. General provisions. Within a recreational vehicle park, recreational vehicles that meet the
4992 requirements herein, whether self-propelled or pulled by a towing vehicle, and camping cabins, as
4993 regulated herein, may be used for temporary lodging. Facilities to accommodate administration,
4994 maintenance, recreation, dining, and personal care may be included within a recreational vehicle
4995 park. Recreational vehicle parks shall be deemed to be nonresidential uses, and any transient guest
4996 site occupied by a registered guest of a recreational vehicle park shall not be deemed to be a
4997 "residence", "dwelling." or "residential premises" within the meaning of other provisions of the City

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4998 of Cape Coral regulations. The management of all transient guest sites and camping cabins must be
4999 performed by a single on-site management company or entity, regardless of whether the transient
5000 guest sites, camping cabins, or both are owned by more than one person or entity.
5001

5002 B. Lodging unit characteristics. Lodging shall only be allowed within recreational vehicles and camping
5003 cabins that have all of the following characteristics:
5004

5005 1. Recreational vehicles:
5006

5007 a. Shall be no more than eight and one-half feet in body width, exclusive of safety devices
5008 when slide outs are retracted;
5009

5010 b. Shall have water and wastewater systems designed for continuous connection to water and
5011 wastewater service facilities while parked at a transient guest site; and
5012

5013 c. Shall not be constructed with collapsible partial sidewalls that fold for towing in such a way
5014 as to be unusable for occupancy.
5015

5016 2. Camping cabins shall comply with all of the following criteria:
5017

5018 a. Cabins shall be constructed in compliance with the Florida Building Code;
5019

5020 b. The square footage of interior space shall be a minimum of 200 square feet and a maximum
5021 of 600 square feet;
5022

5023 c. Cabins shall be equipped with electric service and a full bathroom;
5024

5025 d. Cabins are exempt from non-residential design standards, however when there is more than
5026 one cabin in a development, the color scheme, exterior materials on walls, exterior roof
5027 finishing, and roof type must be consistent among all cabins;
5028

5029 e. Corrugated metal is prohibited for exterior walls; and
5030

5031 f. Roofs shall consist of pitched roofs, including but not limited to, gable, hip, or mansard
5032 roofs; however, mansard roofs with flat decks and shed style roofs are prohibited.
5033

5034 C. Location. Recreational vehicle parks are permitted only on property with a Mixed-Use future land
5035 use designation. No new recreational vehicle park shall be developed and no existing recreational
5036 vehicle park shall be expanded within a coastal high hazard area, as depicted in the Comprehensive
5037 Plan.
5038

5039 D. Minimum interior road standards. All interior roads shall be privately owned and maintained, and
5040 shall be constructed in accordance with the structural requirements within the City of Cape Coral
5041 Engineering Design standards.
5042

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5043 E. Overall recreational vehicle park area and density. The following requirements shall apply to the
5044 recreational vehicle park net area:

- 5045
- 5046 1. Minimum recreational vehicle park net area: 25 acres;
 - 5047
 - 5048 2. Maximum net density: 10 transient guest sites per acre, based on net area; and
 - 5049
 - 5050 3. Minimum net density: For recreational vehicle parks with a net area of less than 50 acres, the
5051 minimum quantity of transient guest sites shall be 50; for recreational vehicle parks with a net
5052 area of 50 or more acres, there shall be no less than one transient guest site per acre, rounded
5053 to the nearest whole number.
 - 5054

5055 For purposes of this section, the net area shall mean the area of the recreational vehicle park minus
5056 extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If an extant
5057 wetland or water area is expanded or contracted, the net area shall be based on the resultant
5058 wetland and water areas.

5059

5060 F. Transient guest sites. Transient guest sites can be designed with either: 1) a pad for parking one
5061 recreational vehicle; 2) one camping cabin; or 3) a pad for parking one recreational vehicle and one
5062 camping cabin. The following standards shall apply to transient guest sites within a recreational
5063 vehicle park:

- 5064
- 5065 1. Each transient guest site shall be clearly defined by a permanent marker, constructed of a
5066 durable material such as masonry or metal, placed at all corners;
 - 5067
 - 5068 2. No transient guest site shall include any space used for common areas, such as roadways,
5069 sidewalks, or community recreation areas;
 - 5070
 - 5071 3. No more than 25% of the total transient guest sites shall be developed with a camping cabin.
5072 Transient guest sites with a pad for parking one recreational vehicle and one camping cabin
5073 shall not be factored into the 25% limitation to the number of camping cabins;
 - 5074
 - 5075 4. All transient guest sites shall be designed to provide runoff of surface water to a drainage
5076 system or basin external to the transient guest site;
 - 5077
 - 5078 5. Impervious area shall not exceed 65% of any transient guest site. Pervious areas of each
5079 transient guest site shall be covered in turf, groundcover, shrubs, trees, or any combination
5080 thereof;
 - 5081
 - 5082 6. Each transient guest site shall have direct vehicular access to an interior road. No transient guest
5083 site shall have direct vehicular access to a public street;
 - 5084
 - 5085 7. No transient guest site shall be located closer than 40 feet to any public street right-of-way;
 - 5086
 - 5087 8. Separation: Each transient guest site shall be designed to ensure minimum separation between
5088 units. When measuring the distance from a recreational vehicle pad, paved areas that project

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- 5089 more than four and one-half feet from the centerline of the pad, e.g., driveway apron flares,
5090 walkways, and patio areas, may be excluded. Distances of separation shall be as follows:
5091
5092 a. Between camping cabins: 15 feet;
5093
5094 b. Between a camping cabin and a recreational vehicle pad on the same transient guest site:
5095 15 feet;
5096
5097 c. Between a camping cabin and a recreational vehicle pad on a separate transient guest site:
5098 20 feet;
5099
5100 d. Between a transient guest site boundary line and a camping cabin: 7½ feet; and
5101
5102 e. Between transient guest site boundary line and a recreational vehicle pad: 7½ feet.
5103
5104 9. Each transient guest site designed with a pad for parking a recreational vehicle shall have the
5105 following standards:
5106
5107 a. Maximum number of recreational vehicles: 1;
5108
5109 b. Minimum site area: 2,000 square feet;
5110
5111 c. Maximum site area: 1 acre;
5112
5113 d. Minimum site width: 35 feet, measured at right angles to and between the designated side
5114 boundary lines; and
5115
5116 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
5117 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
5118 asphalt as a paving material for vehicle pads and driveways is prohibited.
5119
5120 10. Each transient guest site developed with a camping cabin shall have the following standards:
5121
5122 a. Maximum number of camping cabins: 1;
5123
5124 b. Minimum site: 2,500 square feet; and
5125
5126 c. Parking space: Each site developed with a camping cabin shall include a minimum of one
5127 automobile vehicle parking space, paved with concrete or pavers, or as otherwise approved
5128 by the city, with minimum dimensions of 9 feet by 18 feet. This limitation shall not apply to
5129 transient guest sites with a pad for parking one recreational vehicle and one camping cabin.
5130 The use of asphalt as a paving material for vehicle parking spaces is prohibited.
5131
5132 11. Each transient guest site developed with both a pad for parking a recreational vehicle and with
5133 a camping cabin shall have the following standards:
5134

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- 5135 a. Maximum number of units: one camping cabin and a pad for parking no more than one
5136 recreational vehicle;
5137
- 5138 b. Minimum site area: 5,000 square feet;
5139
- 5140 c. Maximum site area: 1 acre;
5141
- 5142 d. Minimum site width: 35 feet, measured at right angles to and between the designated side
5143 boundary lines; and
5144
- 5145 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
5146 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
5147 asphalt as a paving material for vehicle pads and driveways is prohibited.
5148
- 5149 12. Each transient guest site may also include accessory structures for outdoor living, including, but
5150 not limited to, an outdoor kitchen, fire pit, spa, hot tub, gazebo, shade shelter, marine
5151 improvements, and other hardscape features.
5152
- 5153 G. Utilities. Each transient guest site shall have direct connections to central potable water, central
5154 wastewater, and electric services. All water and wastewater utility infrastructure within a
5155 recreational vehicle park shall be privately owned and maintained, except as otherwise approved
5156 by the City Council. Within the recreational vehicle park, all telephone, electric, television cable
5157 service, or other wires of all kinds must be underground, provided, however, that appurtenances
5158 to these systems which require aboveground installation may be exempted from these
5159 requirements and primary facilities providing service to the site of the development or necessary
5160 to service areas outside the planned development project may be exempted from this requirement.
5161
- 5162 H. Lighting. All roads, walkways and parking areas shall be provided with lighting adequate to ensure
5163 the safety of vehicular and pedestrian traffic. All lighting shall be designed so that it is not directed
5164 toward neighboring properties.
5165
- 5166 I. Parking. In addition to parking spaces on transient guest sites, a minimum of one parking space per
5167 ten recreational vehicle sites within the park shall be provided for visitors.
5168
- 5169 J. Designated storage. Except for boats at a rental facility or moored at a marine improvement, boats
5170 and utility trailers (tow dollies, "toy haulers", etc.) shall be stored in a designated storage area that
5171 shall occupy no more than 5% of the gross area of the park. Such storage area shall be for the
5172 exclusive use of registered guests. only during the period the guest is a registered occupant of a
5173 transient guest site. Designated storage areas shall be enclosed by an opaque visual barrier that is
5174 a minimum of eight feet in height. The following materials, either singly or in any combination, are
5175 the only materials that may be used to form the opaque visual barrier:
5176
- 5177 1. Wood, plastic, vinyl, or metal fencing;
5178
- 5179 2. Concrete block and stucco wall;
5180

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5181 3. Brick wall; or

5182

5183 4. Formed, decorative, or precast concrete.

5184

5185 No storage area shall be located closer than 40 feet to any exterior property line of the recreational
5186 vehicle park. No repair or maintenance other than cleaning shall be conducted within such storage
5187 area.

5188

5189 K. Recreation area. At least one recreation area shall be provided within the park, designed and
5190 improved to serve the recreational needs of the park users. The recreation area(s) shall be a
5191 minimum of 500 square feet per transient guest site. All recreation areas shall be accessible to all
5192 occupants of the park. If more than one recreation area is provided, no recreation area shall be less
5193 than 10,000 square feet. A minimum of 50% of the total required recreation area shall be comprised
5194 of recreation within a building, or outdoor facilities for active recreation, including, but not limited
5195 to, swimming pools, ball fields, tennis courts, or play lots with facilities. No portion of any transient
5196 guest site, perimeter buffer yard, internal road or road easement, or stormwater management area,
5197 except as provided below, shall be counted as required recreation area. Bodies of water may be
5198 counted toward required recreation area if recreational use is not otherwise prohibited on or in the
5199 body of water and if recreational amenities, including, but not limited to, a beach, boat rental or
5200 launching facilities, are provided. In no event, however, shall bodies of water comprise more than
5201 50% of the required recreation area.

5202

5203 L. Landscaping plan. Requests for special exception approval for a recreational vehicle park shall be
5204 accompanied by a landscaping plan that provides, at a minimum, compliance with Section 5.5.

5205

5206 M. Phasing. The Director shall not issue a certificate of use for a recreational vehicle park prior to
5207 completion of construction of all of the transient guest sites, internal roads, drainage system,
5208 potable water and wastewater utilities, landscaping and buffering, and accessory structures
5209 approved for the park, unless the Hearing Examiner and Appeals (or the City Council, when
5210 applicable) approves a phasing plan that identifies size, location, sequence, and timing of the
5211 various phases of the development. If a phasing plan is approved, the Director shall not issue a
5212 certificate of use for any phase that has not been completed in its entirety.

5213

5214 N. Operation generally.

5215

5216 1. Responsibilities of management. The owner of a recreational vehicle park shall, at all times,
5217 maintain the park and its facilities in a clean, orderly and sanitary condition. The park
5218 management shall inform all registered occupants of transient guest sites of the provisions of
5219 this section and other related ordinances and statutes, and of their responsibilities thereunder.

5220

5221 2. Certificate of use required. No lodging within recreational vehicles or camping cabins shall occur
5222 prior to the issuance of a certificate of use for the recreational vehicle park.

5223

5224 3. Length of occupancy. No owner of any recreational vehicle park shall allow or permit any
5225 transient guest sites in a recreational vehicle park to be rented to or occupied by any person or
5226 recreational vehicle for any period of time that would permit or allow any person or recreational

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- 5227 vehicle to remain at such recreational vehicle park for more than 180 days in any 365-day
5228 period.
5229
- 5230 4. Register of occupants. The owner or operator of any recreational vehicle park shall file a report
5231 with the Director showing the guest names and addresses, recreational vehicle license numbers,
5232 dates of arrival and departure, and the transient guest site occupied by each guest at the
5233 recreational vehicle park during the preceding calendar quarter. Such reports shall be filed not
5234 later than April 15th, July 15th, October 15th and January 15th for the immediately preceding
5235 calendar quarter.
5236
- 5237 O. Inspections authorized. The Director is hereby authorized to make periodic inspections of the
5238 recreational vehicle park and transient guest sites for the purpose of determining satisfactory
5239 compliance with the regulations of this section pertaining to the health, safety and welfare of the
5240 community.
5241
- 5242 P. Incidental facilities and amenities. Various facilities and amenities incidental to a recreational
5243 vehicle park are permissible, however, all facilities and amenities must meet all requirements stated
5244 herein together with any additional conditions of approval.
5245
- 5246 1. The following facilities may be approved as incidental to a recreational vehicle park:
5247
- 5248 a. Administrative offices;
 - 5249
 - 5250 b. Caretaker or watchperson residence (no more than one);
 - 5251
 - 5252 c. Car wash (Recreational vehicle washing facilities only);
 - 5253
 - 5254 d. Clubhouses;
 - 5255
 - 5256 e. Gatehouses;
 - 5257
 - 5258 f. Grounds maintenance facilities;
 - 5259
 - 5260 g. Laundry facilities:
 - 5261
 - 5262 h. Marine improvements;
 - 5263
 - 5264 i. Restrooms and community showers; and
 - 5265
 - 5266 j. Sanitary dump stations.
 - 5267
- 5268 2. The following amenities are permitted as amenities incidental to the recreational vehicle park
5269 even though they are typically land use classifications identified as individual "uses" within
5270 other zoning districts.
5271
- 5272 a. Banquet halls;

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- 5273
5274 b. Bars;
5275
5276 c. Commercial Recreation – indoor and outdoor;
5277
5278 d. Cultural and civic facilities;
5279
5280 e. Personal services;
5281
5282 f. Professional Offices;
5283
5284 g. Restaurant, no drive-thru; and
5285
5286 h. Retail.
5287
5288 3. For recreational vehicle parks with no frontage on any type of arterial or collector street, food
5289 stores, personal services, and restaurants shall be limited as follows:
5290
5291 a. Vehicular ingress/egress for parking lots supporting an amenity shall not be directly
5292 accessible from any public street, but shall only be accessible from a road within the park;
5293
5294 b. No signs shall be visible from outside the recreational vehicle park; and
5295
5296 c. The cumulative gross leasable floor area occupied by food stores, personal services, and
5297 restaurants shall not exceed 3% of the net area of the recreational vehicle park. For
5298 purposes of this section, the net area shall mean the area of the recreational vehicle park
5299 minus extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If
5300 an extant wetland or water area is expanded or contracted, the net area shall be based on
5301 the resultant wetland and water areas. Food stores shall not occupy more than 25,000
5302 square feet of contiguous gross leasable floor area.
5303
5304 4. For recreational vehicle parks with frontage on any type of arterial or collector street, food
5305 stores, personal services, and restaurants shall be limited as follows:
5306
5307 a. Vehicular ingress and egress for parking lots supporting food stores, personal services, and
5308 restaurants may be directly accessible from a public street. Visible evidence of the
5309 commercial character of food stores, personal services, and restaurants may be observable
5310 from a street outside the park. For food stores, personal services, and restaurants that have
5311 vehicular ingress/egress directly accessible from a public street, or present visible evidence,
5312 observable from a street outside the park, of their commercial character, no certificate of
5313 use shall be issued until a minimum of 20% of the total transient guest sites for the entire
5314 recreational vehicle park have been constructed or installed; and
5315
5316 b. The cumulative gross leasable floor area of food stores, personal services, and restaurants
5317 shall not occupy more than 3% of the net area of the park. Not more than 25,000 square
5318 feet of contiguous gross leasable floor area shall be devoted to food stores.

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5319
5320 5. In the event that a recreational vehicle park fails to meet the minimum required number of
5321 transient guest sites as a result of removal of transient guest sites or conversion to another use,
5322 or if the offering of lodging at transient guest sites is discontinued for one year or more, any
5323 activity that had previously been approved as an amenity incidental to the recreational vehicle
5324 park use shall lose its status as an amenity and shall be treated in the same manner as a
5325 nonconforming use.

5326
5327 Q. Prohibitions. The following uses, activities or improvements listed below are prohibited within a
5328 recreational vehicle park:

5329
5330 1. Permanent residential use is prohibited, except in an approved caretaker/watchperson
5331 residence.

5332
5333 2. Lodging within any structure other than an approved recreational vehicle, camping cabin,
5334 caretaker, or watchperson residence (e.g., tent, mobile home, garage, shed, or agricultural
5335 building) is prohibited within a recreational vehicle park.

5336
5337 3. The storage of a recreational vehicle, boat, or accessory trailer during any period when the
5338 owner or lessee of the vehicle is not a registered occupant of a transient guest site is prohibited.
5339 Storage of boats and accessory trailers is prohibited on individual transient guest sites or on
5340 internal roads.

5341
5342 4. The parking of a recreational vehicle, automobile, or truck in an area not designated for parking
5343 is prohibited.

5344
5345 5. Drive-thru facilities for restaurants are prohibited.

5346
5347 6. Fuel pumps for retail sales of fuel are prohibited.

5348
5349 R. Evacuation plan. Prior to issuance of a certificate of use for a recreational vehicle park, the
5350 developer shall provide an emergency response plan, approved by the Fire Chief that requires the
5351 removal of all recreational vehicles in the event of a hurricane. At a minimum, all recreational
5352 vehicles and occupants shall evacuate when notified of a "Hurricane Watch" being issued for the
5353 city. Any amendment by the developer to an approved evacuation plan requires approval by the
5354 Fire Chief.

5355
5356 **Section. 5.10.6. Micro cottage Village Development (MCVD).**

5357
5358 Micro cottage Village Developments (MCVDs) provide a location for City residents who wish to reside on
5359 lots which are much smaller than the typical Cape Coral property. This housing type encourages efficient
5360 use of land, affordability, and energy conservation. Micro cottage housing allows for a higher density
5361 single family development than is normally allowed. This is made possible by smaller home sizes, clustered
5362 home sites, and parking and design standards. These villages shall be developed to ensure that they
5363 provide an attractive, clean option for these residents which also will not have a deleterious effect on
5364 nearby properties.

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- 5365
- 5366 A. Minimum area and density requirements. The minimum allowable area for a MCVD shall be three
- 5367 acres and the maximum density of micro cottages shall not exceed 8.8 dwelling units per acre. The
- 5368 minimum lot size for individual lots shall be 5,000 square feet.
- 5369
- 5370 B. Buffering. Sites adjacent to single family zoning and land use shall provide a 25’ buffer along each
- 5371 abutting perimeter.
- 5372
- 5373 C. Availability of infrastructure. MCVDs shall be serviced by city utilities.
- 5374
- 5375 D. Clustering. A MCVD is composed of clusters of micro cottages.
- 5376
- 5377 1. Minimum units per cluster: 4.
- 5378
- 5379 2. Maximum units per cluster: 12.
- 5380
- 5381 E. Common open space. Each cluster of micro cottages shall have common open space and provide a
- 5382 sense of openness and community for residents. Open space requirements are as follows:
- 5383
- 5384 1. Each cluster of micro cottages shall have common open space to provide a sense of openness and
- 5385 community for residents;
- 5386
- 5387 2. At least 400 square feet per micro cottage of common open space is required for each cluster.
- 5388
- 5389 3. Each area of common open space shall be in one contiguous and useable piece.
- 5390
- 5391 4. To be considered as part of the minimum open space requirement, an area of common open
- 5392 space must have a minimum dimension of 20 feet on all sides.
- 5393
- 5394 5. The common open space shall be at least 3,000 square feet in area, regardless of the number of
- 5395 units in the cluster.
- 5396
- 5397 6. Required common open space may be divided into no more than two separate areas per cluster.
- 5398
- 5399 7. At least two sides of the common open area shall have micro cottages along its perimeter.
- 5400
- 5401 8. Parking areas, yard setbacks, private open space, and driveways do not qualify as common open
- 5402 space.
- 5403
- 5404 F. Community Buildings. Community buildings are permitted in MCVDs. Community buildings shall be
- 5405 clearly incidental in use and size to dwelling unit and shall be no more than one story.
- 5406
- 5407 G. Ownership. Community buildings, parking areas and common open space shall be owned and
- 5408 maintained commonly by the MCVD residents, through a condominium association, a homeowners’
- 5409 association, or a similar mechanism, and shall not be dedicated to the City.
- 5410

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5411 H. Size. Micro cottages shall meet the following requirements:
5412

5413 1. The gross floor area of each micro cottage shall not exceed 1,100 square feet.
5414

5415 2. At least 25% of the micro cottages in each cluster shall have gross floor area less than 1,000 square
5416 feet.

5417
5418 3. Micro cottage areas that do not count toward the gross floor area or footprint calculations are:
5419

5420 a. Interior spaces with a ceiling height of six feet or less, such as in a second floor are under the
5421 slope of the roof;

5422
5423 b. Architectural projections—such as bay windows, fireplaces, or utility closets—no greater than
5424 24 inches in depth and six feet in width;

5425
5426 c. Attached unenclosed porches;
5427

5428 d. Garages or carports;
5429

5430 4. The footprint of each micro cottage shall not exceed 850 square feet.
5431

5432 I. Unit Height. The maximum height of a micro cottage shall be 25 feet.
5433

5434 J. Orientation of micro cottages.
5435

5436 1. Each dwelling unit shall be clustered around a common open space. Each unit shall have a primary
5437 entry and covered porch oriented to the common open space.
5438

5439 2. Lots in a MCVD can abut either a street or an alley.
5440

5441 3. Each unit abutting a public street (not including alleys) shall have a façade, secondary entrance,
5442 porch, bay window or other architectural enhancement oriented to the public street.
5443

5444 K. Micro cottage Setbacks. The minimum setbacks for all structures (including micro cottages, parking
5445 structures, and community buildings) in a MCVD are:
5446

5447 1. Ten feet from any public right-of-way.
5448

5449 2. Ten feet from any other structure.
5450

5451 3. Micro cottages shall be no more than 25 feet from the common open area, measured from the
5452 façade of the micro cottage to the nearest delineation of the common open area.
5453

5454 4. No part of any structure in the MCVD (including micro cottages, parking structures, and community
5455 buildings) shall be more than 150 feet, as measured by the shortest clear path on the ground,
5456 from fire department vehicle access.

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5457
5458 L. Porches. Micro cottage units shall have covered front porches. The front porch shall be oriented
5459 toward the common open space. Covered porches shall have at least 60 square feet in area.

5460
5461 M. Garages. Garages are not required or encouraged in MCVDs.

5462
5463 N. Parking.

5464
5465

1. Minimum Number of Off-Street Parking Spaces:	
Micro cottage	Required Parking
600-800 square feet	1.00 space
800-1,000 square feet	1.5 spaces
1,000-1,100 square feet	2.00 spaces

5466
5467 2. The MCVD shall include additional guest parking. A minimum of .5 guest parking spaces per
5468 dwelling unit, rounded up to the next whole number, shall be provided for each Micro cottage
5469 cluster. Guest parking may be clustered with resident parking; however, the spaces shall include
5470 signs identifying them as reserved for visitors.

5471
5472 3. Parking shall be separated from the common area and public streets by landscaping or
5473 architectural screening. Solid board fencing shall not be allowed as an architectural screen.

5474
5475 4. Parking areas shall be accessed only by a private driveway or a public alley.

5476
5477 5. The design of garages and carports, including roof lines, shall be similar to and compatible with
5478 that of the dwelling units within the MCVD.

5479
5480 6. Parking areas shall be limited to no more than five contiguous spaces.

5481
5482 O. Walkways.

5483
5484 1. A MCVD shall have sidewalks along all public streets.

5485
5486 2. A system of interior walkways shall connect each micro cottage to each other and to the parking
5487 area, and to the sidewalks abutting any public streets bordering the MCVD.

5488
5489 3. Walkways and sidewalks shall be at least four feet in width.

5490
5491 **Section 5.10.7. Roadside Food and Vegetable Stand.**

5492
5493 Roadside food and vegetable stands shall be subject to the following requirements:

5494
5495 A. Must meet the minimum building setback requirements for the district;

5496
5497 B. May be in operation during daylight hours only;

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- 5499 C. Shall provide a designated parking area at the side or rear of the roadside food and vegetable stand
5500 sufficient to accommodate ten vehicles;
5501
5502 D. Shall be no larger than eight feet by 32 feet in dimensions, and must be structurally sound;
5503
5504 E. Must meet state, county, or local access requirements;
5505
5506 F. May sell fruits, plants, and vegetables only;
5507
5508 G. Must be built with tie downs capable of withstanding 110 mph winds; and
5509
5510 H. Must contain adequate toilet facilities.
5511

5512 **Section 5.10.8. Accessory Parking Lots.**
5513

5514 Accessory parking lots shall meet the following requirements:
5515

- 5516 A. The proposed parking on RML property shall be used only in connection with an existing use or
5517 structure in the C, CC, and P zoning districts.
5518
5519 B. The parcel shall meet minimum dimensional requirements.
5520
5521 C. The area within the RML zoning district proposed for commercial parking shall be composed of
5522 contiguous lots within that district and owned by the commercial or professional property owner
5523 or corporation served by the parking site.
5524
5525 D. A minimum of 40% of the required parking spaces shall be located within a Commercial or
5526 Professional zoning district. The number of required parking spaces shall be determined by Article
5527 6.
5528
5529 E. The location of RML areas proposed for parking shall be immediately to the rear, or across any
5530 service alley, and within the extended side yard lot lines of the property that the parking is intended
5531 to serve.
5532
5533 F. Driveways from the accessory parking in RML areas to residential streets shall not be permitted.
5534 However, commercial property fronting on Del Prado Boulevard or Santa Barbara Boulevard on one
5535 side and on a single-family residential district, as designated on the adopted Future Land Use Map,
5536 on the opposite side, shall be permitted access for the commercial property to the single-family
5537 residential street in accordance with the City of Cape Coral Engineering Design Standards.
5538
5539 G. The driveway shall be included in any traffic impact study for the property to determine the
5540 driveway's impact on the local street and its intersections and if improvements are needed.
5541
5542 H. Where necessary for safe and efficient turn movements, the city may restrict certain turn
5543 movements at the driveway accessing the single-family residential street.
5544

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- 5545 I. For a commercial property fronting on Del Prado Boulevard on one side and on a single-family
5546 residential district, as designated on the adopted Future Land Use Map, on the opposite side, access
5547 for the commercial property shall be permitted to the single-family residential street only on those
5548 streets which provide access to existing and planned signalized intersections on Del Prado
5549 Boulevard.
5550
- 5551 J. The parking area shall be classified as part of the entire non-residential building site.
5552
- 5553 K. A landscape plan for the commercial parking area proposed in an R-3 district shall be submitted
5554 with the application for a special exception use. Landscape plans shall be drawn to scale, including
5555 dimensions and distances, and shall clearly delineate.
5556
- 5557 1. Existing and proposed parking spaces, or other vehicular use areas, access aisles, driveways,
5558 and ingress and egress points;
5559
- 5560 2. The location and floor area of existing building to be served;
5561
- 5562 3. The source of water supply for plantings and materials to be installed or, if existing, to be used
5563 in accordance with the requirements hereof.
5564
- 5565 4. All parking areas shall be landscaped in accordance with the requirements of Section 5.5.13 of
5566 this Article.
5567
- 5568 5. There shall be a minimum of seven feet of green area in side setbacks and ten feet of green
5569 area in setbacks from street lot lines which face residential areas.
5570
- 5571 6. There shall be a continuous undulating 18 inch to three feet high by five feet deep berm of earth
5572 extending along the property facing streets.
5573
- 5574 I. Lighting. If any parking areas are artificially lighted, they shall be so designed and arranged that
5575 lighting is primarily directed on-site. Such areas shall not be lighted at any time other than during
5576 the same hours that the use to which the parking is appurtenant is open for business, except for
5577 necessary security lighting.
5578
- 5579 J. Stormwater Management. All parking areas shall incorporate appropriate stormwater quality
5580 design features to be reviewed with the SDP application.
5581

5582 **Section. 5.10.9. Solar Arrays.**
5583

5584 Solar Arrays shall meet the following requirements:
5585

- 5586 A. These facilities may only be permitted in the Agriculture, Institutional, or Industrial zoning districts.
5587
- 5588 B. Solar Arrays may only be permitted on lots over one acre in size.
5589
- 5590 C. Must maintain appropriate security fencing and signs for protection.

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- 5591
5592 D. Solar Arrays shall be effectively screened with a fence, landscape material, or a combination thereof,
5593 where visible from an abutting property or right-of-way as determined by the Director.
5594
5595 1. The structures may be screened with an opaque wall or fence, up to the height allowed in that
5596 zoning district.
5597
5598 2. Alternatively, the structures may be screened with shrubs that meet the following requirements:
5599
5600 a. A row of shrubs shall be planted along all sides of the facility for which screening is required.
5601
5602 b. All shrubs required for screening shall be a minimum of 32 inches in height and be in at least
5603 a seven-gallon container size at the time of planting. All shrubs shall be planted at a spacing
5604 of three feet apart as measured on center.
5605
5606 c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be
5607 maintained in good condition as long as the structures requiring screening remain.
5608
5609 d. An adequate combination of the two screening options may be permitted.
5610

5611 **Section 5.10.10. Vehicle Sales, Light.**

5612
5613 Vehicle Sales, Light must meet the following requirements:

- 5614
5615 A. The minimum parcel size shall be 2 acres.
5616
5617 B. Vehicle Sales, Light shall be a standalone use only.
5618
5619 C. All display areas must be on a impervious surface such as asphalt or concrete.
5620
5621 D. All repairs must be ancillary and must be conducted within a building.
5622
5623 E. Other than vehicles, no outdoor display of any other items shall be permitted.
5624

5625 **Section 5.10.11. Wireless Communication Facilities**

5626
5627 Wireless Communication Facilities are permitted with the following requirements:

- 5628
5629 1. Adequate documentation that co-location on an existing approved tower or on an existing
5630 building or structure, has been attempted and is not feasible. Such documentation shall include:
5631
5632 2. The results of a designed service study demonstrating to the satisfaction of the city that the
5633 equipment planned for a proposed communication tower cannot be accommodated on an
5634 existing or approved and un-built structure.
5635

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- 5636 3. The designed service study analysis shall be based upon a search area radius of three-quarters of
5637 a mile minimum distance from the location of the intended WCF or tower, including areas outside
5638 the City of Cape Coral. At the discretion of the city, based on the city's knowledge of existing co-
5639 location opportunities, the city may allow an applicant to provide an affidavit from a professional
5640 radio frequency engineer which establishes the search area diameter for the proposed WCF or
5641 tower location and identifies all other alternatives in the area. Further information may be
5642 required by the city on the ability of the WCF or tower to be accommodated on specific sites
5643 within three-quarters of a mile of the proposed WCF or tower.
5644
- 5645 4. When co-location is determined by staff to be infeasible, the determination shall be based upon
5646 the results of the designed service study and other evidence provided by the applicant
5647 documenting one or more of the following reasons:
5648
- 5649 a. Structural limitation. The proposed equipment would exceed the structural capacity of the
5650 existing or approved structure, as documented by a licensed professional engineer, and the
5651 existing or approved structure cannot be reinforced, modified, or replaced to accommodate
5652 the planned or equivalent equipment at a reasonable cost.
5653
 - 5654 b. Interference. The proposed equipment would cause interference or obstruction materially
5655 impacting the usability of other existing or planned equipment at the tower or building as
5656 documented by a qualified professional and the interference or obstruction cannot be
5657 prevented at a reasonable cost.
5658
 - 5659 c. Insufficient height. Existing or approved towers and buildings within the search radius cannot
5660 accommodate the planned equipment at a height necessary to function reasonably as
5661 documented by a licensed, if applicable, professional.
5662
 - 5663 d. Lack of space. Evidence from the applicant, verified by a licensed professional, of the lack of
5664 space on existing towers or other structures within the search radius to accommodate the
5665 proposed facility.
5666
 - 5667 e. Other factors. Other reasons that make it unfeasible to locate the planned equipment upon
5668 an existing or approved tower or building as documented by a qualified and licensed, if
5669 applicable, professional.
5670
 - 5671 f. Technical consultants. The city shall have the right to retain independent technical
5672 consultants and experts that it deems necessary to properly evaluate applications for wireless
5673 telecommunications facilities or towers and to charge reasonable fees as necessary to offset
5674 the cost of such evaluations.
5675

Section. 5.10.12. Wireless Facility Design standards.

5676 In addition to any other applicable requirements provided elsewhere in the Land Development Code, an
5677 application for a communication tower shall include the following:
5678
5679
5680

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- 5681 A. Fall zone. In the event of a catastrophic failure or collapse, towers shall be designed to collapse within
5682 an engineered fall zone lying wholly within the lot lines of the parcel containing the tower. Such fall
5683 zone shall be certified by a professional engineer, licensed in the State of Florida.
5684
- 5685 B. Tower design for co-location. A proposed tower shall be designed to allow for future rearrangement
5686 of antennas, to provide space for antennas to be mounted at varying elevations, and to accommodate
5687 co-location.
5688
- 5689 C. Monopoles or stealth. All towers shall be monopoles or stealth design.
5690
- 5691 D. Illumination. A tower shall not be artificially lighted except as may be required by federal or state
5692 regulations.
5693
- 5694 E. Surface or finish color. All towers shall be painted or have a non-contrasting finish that minimizes the
5695 visibility of the facility from public view, except where contrasting color is required by federal or state
5696 regulation. In addition, the exterior of support facilities shall be designed to be compatible with the
5697 architectural design prevailing among the structures in the surrounding developed area.
5698
- 5699 F. Sign. The main access gate in the tower shall have affixed to it a sign not to exceed two feet by three
5700 feet in size which displays the owner's or permittee's name and an emergency telephone number.
5701
- 5702 G. Maximum height. The maximum height of towers shall be 100 feet if the tower is designed for one
5703 service provider, 120 feet if the tower is designed to accommodate two service providers, or 140 feet
5704 if the tower is designed to accommodate three or more service providers.
5705
- 5706 H. Landscape screening. The accessory components to the tower shall be screened from view by shrubs
5707 maintained at a height of six feet, immediately adjacent to the fence surrounding the facility and
5708 minimum of eight trees planted outside of the shrub buffer
5709

5710 **Section. 5.10.13. Mobile food vendor.**

5711
5712 Mobile food vendors ~~may~~ include hot dog carts, mobile food units, and self-sufficient mobile food units.
5713 These types of mobile food vendors are defined in Article 11, Definitions and ~~vehicles, carts, or trailers,~~
5714 hereafter referred to as food trucks, may be permitted on public or private property subject to the
5715 following requirements:

- 5716
5717 A. Mobile ~~operations~~ hot dog carts, mobile food units, and self-sufficient mobile food units may only be
5718 conducted from 7:00 a.m. to 10:00 p.m. on weekdays and from 7:00 a.m. to 11:00 p.m. on weekends.
5719 Mobile food units and self-sufficient mobile food units shall be removed from the site for at least 24
5720 hours once each month.
5721
- 5722 B. For purposes of these requirements, the vending area includes the space taken up by: a portable
5723 stand, vehicle, or trailer, any signs, equipment, merchandise, and any tents, tarpaulins, canopies, or
5724 awnings. Mobile vending areas shall not be in:
5725

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- 5726 1. Driveway aisles, no parking zones, landscaped area, loading areas, or fire lanes; mobile operations
5727 shall not impede the on-site circulation of motor vehicles.
5728
- 5729 2. Food trucks shall not be set up in more than two required off-street parking space. ~~spaces unless~~
5730 ~~the number of spaces on the site exceeds the minimum amount required for uses on the property.~~
5731 ~~The utilization of an off-street parking space for the operation of a mobile operation must not~~
5732 ~~cause the site to become deficient in required off-street parking.~~
5733
- 5734 3. Food trucks shall not operate on the public right-of-way.
5735
- 5736 C. Food trucks may operate on vacant, unimproved property only when approved as a special event
5737 pursuant to Section 5.9.10 of this Article.
5738
- 5739 D. The total space dedicated to the mobile operation and vending area shall not exceed an area of 600
5740 square feet.
5741
- 5742 E. Food trucks shall be a minimum of 20 feet from the property line of an existing residential use, except
5743 that a mobile food unit may be a minimum of 10 feet from the property line if the residential use is
5744 separated by a six-foot high masonry wall.
5745
- 5746 F. Alcoholic beverage sales and use of sound amplification devices are prohibited.
5747
- 5748 G. Electric service connection to an on-site approved outlet is permitted, provided that no wiring or
5749 cables are run beyond the vending area or pose any danger to the patrons.
5750
- 5751 H. Prior to permitting a food truck to operate on a site, the vendor must submit an application for
5752 operation and the following documents:
5753
- 5754 1. A site plan or survey indicating the following:
5755
- 5756 a. Location of the individual mobile food unit and associated vending area. Mobile operations
5757 shall be located so as to minimize the impacts on adjacent residential uses.
5758
- 5759 b. Location of improvements on the site.
5760
- 5761 c. Location of on-site parking areas,
5762
- 5763 d. Rights-of-way, internal circulation, and ingress and egress.
5764
- 5765 e. A letter from the owner of the property indicating that the mobile food vendor has permission
5766 to operate from his or her property.
5767
- 5768 I. Signs associated with the operation shall be confined to the vehicle, trailer, or cart and one ground
5769 sign within 10 feet of the vending area. The ground sign shall be in compliance with the size
5770 requirements listed Article 7 and may not be within a right-of-way.
5771

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5772 J. When multiple food trucks plan to be together for an event, a special event permit will be required if
5773 the event meets the thresholds listed in Section 5.9.10. of this Article.

5774
5775 K. Except as otherwise provided in this Code, it is unlawful to conduct mobile vending in any outdoor
5776 location without first obtaining a Certificate of Zoning Compliance and a Business Tax Receipt permit
5777 in accordance with the City Code of Ordinance, Article 3 of this Code, and the provisions of this
5778 Section.

5779
5780 L. The vendor must be able to produce for inspection: a copy of a letter or other written communication
5781 from the property owner or representative that authorizes the hot dog cart, mobile food unit, or self-
5782 sufficient mobile food unit mobile operation and, for mobile food service operators, a copy of the
5783 applicant's mobile food dispensing license issued by the Department of Business and Professional
5784 Regulations.

5785
5786 M. Mobile operations at City or County parks, sports stadiums facilities, or similar venue during events
5787 shall be exempt from the requirements of this Section but must comply with all other applicable
5788 requirements in this code.

5789
5790 M.N. Vendors are prohibited from discharging fat, oil, grease, or wastewater into the sanitary sewer
5791 system. Waste shall be properly stored and disposed of at an approved disposal facility.

5792
5793 Mobile vendors, other than hot dog carts, mobile food units, and self-sufficient mobile food units ~~food~~
5794 ~~trucks~~, shall be permitted only in conjunction with a special event or a farmer's market.

5795
5796 **Section. 5.10.14. Model homes.**

5797
5798 Model Homes shall ~~be subject to~~ meet the following requirements.

5799
5800 A. Model homes are intended to facilitate the sale of the model design, or products similar in design to
5801 the model and is not intended to allow the full scope of real estate activities and shall be restricted
5802 primarily to the sale and marketing of the model, or products similar to the model. Model homes shall
5803 be permitted as a temporary, conditional use, not to exceed 10 years, in residential zoning districts
5804 (R1, RE, RML) or within a Planned Development.

5805
5806 B. A model home must meet all of the zoning and building requirements for a residence in that zoning
5807 district as well as the following:

5808
5809 1. Parking. Three off-street vehicular parking spaces, including the garage, shall be provided on the
5810 model site or on an adjacent vacant property.

5811
5812 2. On-site parking. A parking space may be provided in the garage. A handicap parking space is
5813 required and shall count as one of the three required spaces.

5814
5815 3. Off-site parking. Adjacent vacant single-family lot(s) may be used for model home parking. A plan
5816 to provide parking on an adjacent parcel shall require ownership by the same or an affidavit of
5817 authorization from the property owner as well as a surety deposit payable to the City of Cape

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- 5818 Coral to convert the property back to a residential or other permitted use when the structure is
5819 converted or sold. The deposit shall cover the costs associated with the conversion of the parking
5820 lot. The deposit shall be based on no less than 110% of the estimated cost by a professional
5821 engineer licensed in the State of Florida which shall be signed and sealed by the engineer, and
5822 found to be acceptable to the City. Funds and resulting interest shall be returned upon conversion
5823 of the site to a residential or other permitted use, the entire amount if the work is completed by
5824 the applicant, or the remaining funds if the City completes the work.
5825
- 5826 4. A hedge row of at least 36 inches in height shall be planted and maintained around the vehicular
5827 parking area.
- 5828
- 5829 5. On-site or off-site parking shall be a paved or ~~paved~~ approved impervious surface with
5830 appropriate signs and markings, including handicap parking.
- 5831
- 5832 6. Treatment of stormwater runoff will be required for the first inch of runoff from the paved area
5833 associated with the parking lot area only.
- 5834
- 5835 7. Model home parking lots require a Limited Site Development Plan approval prior to construction.
5836
- 5837 B. Handicapped standards shall be met throughout the home, including access per the Florida Building
5838 Code and handrail and grab bar requirements.
- 5839
- 5840 C. Garage office. For any garage being used as an office for a model home the applicant must submit the
5841 following:
- 5842
- 5843 1. Plan of garage-office facility, including false walls, temporary electrical and plumbing.
- 5844
- 5845 2. Plan showing how garage will be returned to its original use.
- 5846
- 5847 3. \$10,000.00 refundable surety to ensure that the garage is converted back to the FEMA standards
5848 for single-family home usage.
- 5849
- 5850 D. Sign standards as defined in Article 7 of this code.
- 5851
- 5852 F. Upon completion of the construction and approval of the unit as a model home, a "temporary
5853 certificate of occupancy" will be issued to the owner of the model home to remain open for a period
5854 of five years. Extensions beyond this five-year temporary certificate of occupancy may be granted for
5855 the structure in the event an extension is approved for the model's permit by the Director of
5856 Community Development. The initial approval and maximum extension will allow the use of an
5857 individual model home to exist for a cumulative 10 years. The decision to extend the initial permit
5858 shall be pursuant to the following considerations:
- 5859
- 5860 1. The number of existing model homes within the immediate area of the extension request and
5861 impacts of those on the neighborhood.
- 5862
- 5863 2. The adequacy of the right(s)-of-way upon which the model home fronts.

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- 5864
- 5865 3. The character or makeup of the area surrounding the model home.
- 5866
- 5867 4. The potential effect of the model home on adjacent and surrounding properties.
- 5868
- 5869 5. The existence of complaints relating to that model home.
- 5870
- 5871 6. A demonstration of good cause from the applicant why the extension request is needed.
- 5872
- 5873 7. Approval as a model home shall be recorded against the title.

5874

5875 Section 5.10.15. Buildings and Construction with outdoor storage and display shall meet the following

5876 requirements.

5877

5878 A. No storage or display shall be in fire lanes or required parking areas.

5879 -

5880 B. Materials or equipment that is brought inside a building overnight shall not be considered as display.

5881

5882 **Chapter 11. - CONDITIONAL USES**

5883

5884 **Section. 5.11.1. Purpose and applicability.**

5885

5886 A. Purpose and Intent

- 5887
- 5888 1. To provide standards and criteria for review and approval of specified conditional uses for a
- 5889 specific site.
- 5890
- 5891 2. To provide reasonable limitations or special conditions for conditional uses, in order to address,
- 5892 minimize, or ameliorate potential impacts of the use on surrounding property and for the
- 5893 protection of the public health, safety, and welfare.

5894

5895 B. General Requirements. Proposed conditional uses must meet the following requirements:

- 5896
- 5897 1. The conditional use standards identified in Article 4 for the specific zoning district use and
- 5898 conditional use in question.
- 5899
- 5900 2. The proposed conditional use will not result in development that is inconsistent with the intended
- 5901 character of the applicable zoning district.
- 5902
- 5903 3. A listed conditional use that does not meet the applicable conditional use standards may apply
- 5904 for approval as a Special Exception.

5905

5906 C. Review Criteria. A Conditional Use may be approved by the Director based on criteria identified in

5907 Article 4. These criteria are specific to each conditional use.

5908

5909 **Section. 5.11.2. Brewpubs.**

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Brewpubs in the MXB district must meet the following conditions:

- A. The area used for brewing, bottling, and kegging of all beverages produced by the establishment shall not exceed 40 percent of the total floor area of the restaurant, bar, or nightclub, or exceed a total floor area of 2,500 square feet devoted for brewing, bottling, and kegging, whichever is less.
- B. An interior floor plan shall be submitted that clearly shows the area of the building that will be devoted to the brewing, bottling, and kegging component of the establishment.
- C. No outdoor storage shall be allowed including the use of portable storage units, cargo containers, and tractor trailers, except as follows: spent or used grain may be placed outdoors for a period not to exceed 24 hours. The temporary stockpiling for spent or used grain shall be:
 - 1. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the stockpiled spent grains and the distance of the stockpiled grains from property lines and the building containing the brewpub;
 - 2. Placed only along the side or rear of the building; and
 - 3. Fully enclosed in containers that are screened behind an opaque wall or fence. The wall or fence shall have a minimum height of six feet.

Section. 5.11.3. Attached residential of three-units or more.

Attached residential structures of three-units or more in the RML, CC, NC, MX, MXB, and SC zoning districts must meet the following conditions:

- A. The number of linearly attached units must be between three and nine.
- B. Landscaping shall be provided at a rate of two trees and six shrubs per 2,500 square feet of lot, rounding up to the next full number.
- C. Attached residential developments shall incorporate three of the following design elements into each dwelling unit:
 - 1. Dwelling entry as the primary façade feature;
 - 2. Garage door recessed from the front façade, a preferred minimum of four feet;
 - 3. Horizontal eaves broken up with gables, projection, and articulation;
 - 4. Projecting eaves and gables, related to building massing;
 - 5. Building massing and roof form which articulate individual unit definition;

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- 5956 6. Offset of four feet where two garage doors are adjacent to each other; or
5957
5958 7. Projections and decorative elements, such as trellises, for visual interest.
5959

5960 **Section. 5.11.4. Multi-family dwellings.**

5961
5962 Multi-family dwellings in the RML, RMM, CC, NC, MXB, MX7 and SC districts must meet the following
5963 conditions

5964
5965 A. Multi-family units in RML, RMM, CC, NC, MX, and SC require 700 square feet for a one bedroom and
5966 200 square feet for each additional bedroom.

5967
5968 B. Building Modulation and Articulation. All multi-family buildings shall provide a combination of
5969 volumetric and massing modulation and articulations to prevent the construction of ‘big boxes’, but
5970 rather buildings that harmonize their architectural quality in a stylistically pleasant manner. All
5971 buildings shall incorporate the following combined elements from the articulation criteria identified
5972 below.

5973
5974 1. A minimum of three of the following volumetric elements shall be provided:

5975
5976 a. Pitched roof forms, minimum pitch of 4/12, whose sum covers greater than 30% of the
5977 overall roof area;

5978
5979 b. Architectural roof overhangs four feet or greater in depth or cornices 12 inches or greater in
5980 height;

5981
5982 c. Arcades. Arcades may be used as a means of sheltering pedestrian areas, and where
5983 provided, shall connect to entrances;

5984
5985 d. Accent elements such as tower elements, porticos, cupolas, or domes; or

5986
5987 e. A building with frontage 90 feet or less in length shall provide the following minimum
5988 massing articulations:

5989 i. A minimum of fifty percent (50%) of the cumulative frontage of each façade shall be
5990 setback a minimum of five feet from the primary façade and shall be distributed
5991 throughout the building frontage and shall not be provided as a single aggregated
5992 setback; and

5993 ii. A minimum of twenty percent (20%) of each frontage of each facade shall be setback
5994 a minimum of eight feet from the primary façade.

5995
5996 2. A minimum of four of the following architectural elements shall be provided:

5997
5998 a. Stoops on the ground floor and balconies on all floors above the ground floor;

5999
6000 b. Porches on the ground floor;
6001

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- 6002 c. Pilasters, string courses, character lines, or other such means of subdividing the facade;
6003
6004 d. Structural or ornamental details clearly distinct from the primary wall surface, e.g., lintels,
6005 sills, door and window surrounds, decorative panels, etc.;
- 6006
6007 e. Decorative planters or planting areas a minimum of five feet in width, integrated into the
6008 building design; or
6009
6010 f. Masonry in at least two contrasting tones or textures, accomplished by a change in material
6011 or coursing such as brick, natural stone, brick or stone veneer, glass, masonry stucco,
6012 decorative concrete block, decorative concrete panels, tile glazing and framing systems, split
6013 face or fluted concrete masonry, factory glazed concrete masonry units, or architectural pre-
6014 cast concrete.
6015

Section. 5.11.5. Vehicle Repair, Minor.

6016
6017 Vehicle Repair, Minor in the C and CC districts must meet the following conditions:
6018
6019

- 6020 A. The number of cars being kept on site, not in a garage bay, shall be limited to three.
6021
6022 B. All cars kept on site for repairs must be visually screened from the right-of-way and adjacent
6023 properties.
6024
6025 C. All repair work shall be performed within the garage.
6026
6027 D. No outside storage of materials or chemicals, all installation to occur within garage.
6028
6029 E. Hours of operation for repair work shall be limited from 7 a.m. to 8 p.m. when adjacent to any
6030 residential development.
6031

Section. 5.11.6. Outdoor Screened Storage.

6032
6033 Outdoor Screened Storage in the CC district must meet the following conditions:
6034
6035

- 6036 A. The screening must consist of opaque fence or wall. Chain-link fencing (with or without slats) is
6037 prohibited for screening.
6038
6039 B. The minimum height of the screening shall be 6 feet.
6040
6041 C. The height of the screening shall be tall enough to screen items being stored.
6042
6043 D. All perimeter landscaping shall be on the outside of the screening.
6044
6045 E. The screened area must be used in conjunction with principal use.
6046
6047 F. The area used for storage must be an improved impervious surface such as asphalt or concrete.

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G. No vehicular access to the storage area shall be allowed from a local street.

Section. 5.11.7. Laboratory – Medical, Research, Testing, and Development.

Medical, Research, Testing or Development Laboratory Facilities in the NC district must meet the following conditions:

A. The laboratory shall not produce any exterior impacts such as sound, smoke, or odor.

B. No outside storage of materials shall be permitted.

Section. 5.11.8. Sporting Facilities, Indoor and Outdoor.

Sporting Facilities, Indoor and Outdoor in the A district must be in conjunction with an agricultural use such as riding stadiums etc.

Section. 5.11.9. Boat Sales

Boat Sales in the SC district may only be permitted on sites with water frontage and direct access to Caloosahatchee River.

Section 5.11.10. Home based businesses

Home ~~occupations-based businesses~~ shall only be allowed as an accessory use to a single-family residential use and must meet the following conditions:

A. All home ~~occupations-based businesses~~ operated in or from a residence shall comply with federal, state, and county rules and regulations, city license regulations specified herein and any other applicable ordinances of the City of Cape Coral.

B. No condition shall be permitted which tends to cause or increase the fire hazard to the residence, such as storage of paints or other flammable materials in excess of normal family use.

C. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display of materials be visible from the outside of the structure.

D. The appearance of the structure shall in no way be altered for the conduct of the home occupation within the structure nor shall the conduct be such that the structure may be recognized as serving a non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations, audible or visible interference in any radio or television receiver off the premises, or cause fluctuations in the electric voltage line off the premises.

~~E. No business operated under a fictitious name shall be issued a license to operate under this Section.~~

F. Frontage and access shall be from arterial street.

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- 6094 G. No driveway with ingress or egress to a local street shall be utilized.
- 6095
- 6096 H. Hours of operation shall be 7:00 A.M. until 7:00 p.m.
- 6097
- 6098 I. Employees and customers shall be allowed as long as adequate parking is provided on-site.
- 6099
- 6100 J. No parking shall be allowed on any surrounding parcels.
- 6101

Section. 5.11.11. Self-Storage Facility.

Self-storage facilities in the I, C, and CC districts must meet the following conditions:

- 6106 A. The facility must be designed so as to screen the interior of the development from all property lines.
6107 Screening features may consist of a free-standing wall, wall of a building, or a combination of the two.
6108 Free-standing walls used for screening shall be eight feet in height measured from grade.
6109
- 6110 1. The following materials, either singly or in any combination, are the only materials that may be
6111 used to form the wall:
6112
 - 6113 a. Concrete block coated with stucco;
 - 6114
 - 6115 b. Textured concrete block;
 - 6116
 - 6117 c. Stone;
 - 6118
 - 6119 d. Brick; or
 - 6120
 - 6121 e. Formed, decorative, or precast concrete.
 - 6122
- 6123 2. If the wall of a building is used to meet the opaque feature requirement, such wall shall be
6124 surfaced with stucco, brick, stone, textured concrete masonry units, or other concrete surface.
6125 Untreated concrete block is not an acceptable finished material. Building walls used as a
6126 screening feature shall not have doors or windows.
6127
- 6128 B. A landscaped area with a minimum width of 10 feet shall be provided around the perimeter of the
6129 site. Perimeter landscaping shall consist of a minimum of three canopy trees per 100 feet, three
6130 accent trees per 100 feet, and 33 shrubs per 100 feet. Palms trees cannot be used to meet the
6131 minimum planting requirement of this section. All shrubs shall be installed at a minimum height of
6132 32 inches and be in a minimum seven-gallon container at the time of planting.

Section. 5.11.12. Vehicle fueling stations.

Vehicle fueling stations in the C, N, and SC (along primary streets) districts must meet the following conditions:

- 6138
- 6139 A. General:

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- 6140
- 6141 1. All buildings, including pump islands, shall have a 25' setback from all property lines.
- 6142
- 6143 2. In no case shall a lot have less than 100 feet of street frontage.
- 6144
- 6145 3. Underground storage is required for all receptacles for combustible materials in excess of 55
- 6146 gallons. Such storage shall comply with all building and fire codes and Environmental Protection
- 6147 Agency standards.
- 6148
- 6149 4. The accumulation and storage of waste petroleum products is forbidden, unless in compliance
- 6150 with Environmental Protection Agency standards.
- 6151
- 6152 5. Primary services and sales permissible include fueling stations and electric charging stations, and
- 6153 include only the following accessory uses:
- 6154
- 6155 a. Car wash services;
- 6156
- 6157 b. Sale of convenience goods; and
- 6158
- 6159 c. Accessory fast food services without a drive-through.
- 6160
- 6161 6. Uses permissible at a gas station do not include body work, straightening of body parts, painting,
- 6162 welding (other than minor repairs), or other work involving noise, glare, fumes, smoke, or other
- 6163 characteristics to an extent greater than normally found in vehicle fueling stations. A vehicle
- 6164 fueling station is not a body shop.
- 6165
- 6166 7. Outside materials storage is not permissible.
- 6167
- 6168 8. Lighting at a gas station shall be designed and installed so as to prevent glare or excessive light
- 6169 above 0.1 foot-candles on adjacent property. No source of illumination shall be allowed if such
- 6170 source of illumination, unshielded, would be visible from a residentially-zoned district to the
- 6171 extent that it interferes with the residential use of that area.
- 6172
- 6173 9. The minimum size parcel shall be 1.25 acres.
- 6174
- 6175 10. An eight-foot tall opaque wall constructed of concrete block coated with stucco, textured
- 6176 concrete block, stone, brick, or concrete (formed, decorative or precast) shall be constructed
- 6177 between any residential properties and a gas station. The wall shall be constructed within the gas
- 6178 station property, seven and one-half feet from the property line shared by the gas station and any
- 6179 adjacent residential property. The wall shall not be within a sight triangle.
- 6180
- 6181 a. The residential side of the wall shall be landscaped with shrubs (seven-gallon and 32 inches
- 6182 at planting) which shall be maintained at a mature height between six and eight feet and 80
- 6183 percent opacity.
- 6184

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6185 11. Stormwater runoff from the fueling and storage tank loading areas shall be directed to an
6186 oil/gas/water separator prior to entering the surface water treatment area for the project.

6187

6188 B. Appearance:

6189

6190 1. All structures on the site shall have a unified architectural theme.

6191

6192 2. Gas station roofs shall be pitched a minimum of 4:12.

6193

6194 3. A minimum of 12-inch overhangs shall be provided

6195

6196 4. Roof and exterior wall surfaces, with the exception of glass areas, shall be nonreflective. Any glass
6197 coating shall not reflect outward.

6198

6199 5. The use of flat steel or metal panels for the exterior walls of the gas station shall be prohibited.

6200

6201 6. The rear and sides of buildings shall be finished with material that in texture and color resembles
6202 the front of the building.

6203

6204 7. Glass windows and doors must make up at least 25 percent of the front elevation and 15 percent
6205 of the side elevations at eye level.

6206

6207 8. Any canopy shall be restricted to a clearance of 14 feet in height and shall be consistent with the
6208 primary structure design. The canopy columns and roof shall be architecturally finished to match
6209 the building.

6210

6211 9. The commercial advertising on the canopy shall be limited to 10 percent of the exterior area of
6212 the canopy and backlighting shall not be permitted on the canopy.

6213

6214 10. Perimeter walls, if utilized, shall be architecturally compatible with the principal structure.

6215

6216 C. Landscaping:

6217

6218 1. Front yard buffer. An enhanced front yard buffer shall be required for automobile service
6219 stations to limit the visual impact of the use. The following requirements shall be utilized:

6220

6221 2. Area to be landscaped. A strip of land at least 10 feet in depth, abutting the right-of-way and
6222 extending the length of the property except the entrance and exit drives, shall be landscaped.

6223

6224 3. Minimum tree requirements. Palm clusters on the ends of landscape buffers parallel to the gas
6225 pump canopy. The palm clusters shall consist of three palms with a minimum of 13 feet of gray
6226 wood, at planting. One cluster shall be provided for every 30 feet of road frontage;

6227

6228 4. Landscape accents. The use of landscape accents, such as planters and window boxes, shall be
6229 incorporated into the overall landscape design of the building and the site;

6230

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6231 5. Other materials. The remainder of the required landscaped area shall be landscaped with grass,
6232 ground cover, or other approved landscaping treatment.

6233
6234 D. Vehicle Fueling Stations in the SC zoning district shall only be allowed with frontage along Del Prado
6235 Boulevard.

6236
6237 [Section. 5.11.13. Religious Institutions.](#)

6238
6239 [Religious Institutions in the R1, RML, RMM, RE, and A districts shall have a minimum size of three acres.](#)

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6241
6242

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45

46

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91

92

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156
157 **CHAPTER 1. GENERAL REQUIREMENTS FOR ALL DEVELOPMENT**

158
159 **Section 5.1.1. Purpose and Intent**

160
161 The purpose of this article is to provide standards for all development in the City of Cape Coral.
162

163 **Section 5.1.2. Connection to utilities.**

164
165 All development is required to connect to public or private utilities, as required as by the City of Cape
166 Coral Code of Ordinances, Chapter 19 Water and Sewer Utilities.
167

168 **Section. 5.1.3. Requirements for underground utilities.**

169
170 A. In new residential subdivisions, all utility lines (including electrical power distribution, telephone,
171 communication, street lighting, and cable television signal service) shall be installed underground.
172 This Section shall apply to all cable, conduits, or wires forming part of an electrical distribution system,
173 including service lines to individual properties.

174
175 However, this Section shall not apply to wires, conductors, or associated apparatus and supporting
176 structures whose exclusive function is in transmission of electrical energy between generating
177 stations, substations, transmission lines of other utility systems, and main distribution feeder electric
178 lines delivering power to local distribution systems. Appurtenances such as transformer boxes,
179 pedestal-mounted terminal boxes, and meter cabinets may be placed above ground and in such a
180 manner as to minimize noise effects upon the surrounding residential properties.

181
182 B. The developer shall provide for the necessary costs and other arrangements for such underground
183 utility installation.
184

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- 185 C. For all new buildings in the Commercial Corridor, South Cape, and PUD zoning districts all onsite
186 utilities including telephone, electricity, cable television, and other wires of all kinds shall be placed
187 underground. However, appurtenances to these systems that require aboveground installation,
188 including utility panel boxes, are exempt from this requirement if the appurtenances are not placed
189 in front yards. When such appurtenances are placed in utility easements abutting a platted alley,
190 they shall be placed at least ten and one-half feet from the centerline of the platted alley. These
191 underground requirements also apply to those improvements to non-conforming structures that
192 exceed the 50% thresholds as described in Article 8, Nonconformities. All utility infrastructure,
193 including electric utility poles and power lines, shall be concealed from public view wherever
194 possible. All new electric distribution lines shall be located in utility easements abutting platted
195 alleys and the utility poles shall be positioned so that a minimum clearance of ten and one-half feet
196 from the centerline of any platted alley is maintained. For properties that do not have a rear platted
197 alley, the electric distribution lines and utility poles shall be placed in the rear utility easement
198 wherever possible.
199
- 200 D. In the South Cape zoning district where overhead or underground utility lines have been placed in
201 the six-foot PUE, a property owner shall choose one of the following options:
202
- 203 1. Relocate the utility lines to the alley or other acceptable location, at the property owner's sole
204 expense, and subject to approval by the affected utility provider(s) and the City of Cape Coral;
205 or
206
 - 207 2. Place a concrete sidewalk or architectural elements on the front six-foot property setback. If
208 overhead electric lines are in place, no awnings, canopies, balconies, colonnades, arcades, or
209 front porches may be constructed forward of this line even if otherwise required by this code.
210 If underground lines of any type are in place, the property owner is solely responsible for
211 repairing any damage to lawful encroachments into the six-foot easement resulting from
212 maintenance or improvements to utility lines.
213

214 **Section 5.1.4. Access required.**
215

216 Except as otherwise provided, all building sites shall have access on a street or a road shown on an
217 approved and recorded final plat. One or more buildings may have no direct access to a street provided
218 that the approving authority finds that such building site(s) have adequate indirect access to a street such
219 as a recorded easement or right-of-way through or over another parcel. The city may prohibit direct access
220 from a parcel or building site to a street when the approving authority finds that prohibition of direct
221 access would promote the public health, safety, and welfare based on factors including traffic or
222 transportation safety and when the parcel or building site could be afforded indirect access to a street or
223 other road via another parcel or building site.
224

225 **Section 5.1.5. Protection of underground pipelines and utilities.**
226

- 227 A. Intent. It is the intent of the City Council to protect underground pipelines and utilities from
228 destruction or damage to prevent:
229
- 230 1. Death or injury to persons;

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- 231
232 2. Property damage to private and public property; and
233
234 3. Loss of essential pipeline or utility services to the general public.
235
236 B. All excavation on public property, rights-of-way, or dedicated easements shall comply with the
237 requirements of F.S. 556. **UNDERGROUND FACILITY DAMAGE PREVENTION AND SAFETY.**
238
239 C. Penalties for violation. Any person violating this section shall be punished as provided in the Code
240 of Ordinances of the City of Cape Coral.
241

242 **Section 5.1.6. Protection of easements.**
243

- 244 A. In the R-1, RML, RE, and A zoning districts, the six-foot easement around the perimeter of sites shall
245 be preserved and nothing shall be placed or constructed on such easements other than a paved
246 driveway, walkway, sidewalk, fences, or well. In addition, for non-residential uses lawfully located
247 in residential zoning districts, paved off-street parking areas may be placed or constructed on the
248 six-foot easement around the perimeter of the site.
249
250 B. In the RMM zoning district, where lot depth is greater than 131 feet, the six-foot easement around
251 the perimeter of the sites shall be preserved and nothing shall be placed or constructed on such
252 easement other than a paved driveway, walkway, sidewalk, paved off-street parking areas, or a well
253 when site conditions make it impractical to locate elsewhere. On sites with a depth of less than 131
254 feet, paving of the front easement for parking purposes shall be permitted.
255
256 C. Lawn sprinkler systems and landscaping may be placed in the 6' PUE easements as permitted by the
257 Code of Ordinances or the Land Development Code.
258
259 D. In the C, CC, I, INST, MX, MXB, MX7, NC, P, and SC zoning districts, paved off-street parking areas,
260 paved driveways, sidewalks, wells, walkways at ground level, lawn sprinkler systems, or landscaping
261 may be placed in an easement provided that all other requirements of the Code of Ordinances or
262 the Land Development Code are met.
263
264 E. Nothing in this section shall prohibit the construction of seawalls, davits, docks, or other structures
265 as permitted by the Cape Coral Code of Ordinances.
266
267 F. If a utility removes, damages, or disturbs the construction or other material within an easement as
268 allowed by this section, the property owner shall be responsible for the cost of its removal,
269 relocation, repair, or replacement. If any plant material in an easement required by Chapter 5 of
270 this Article of the Land Development Code is removed or damaged, the property owner shall replace
271 all such material within 30 days of the completion of the utility work. These requirements also
272 include repair or replacement of sod within the right-of-way. In addition, prior to issuing a permit
273 to locate, place, construct, or install any structure, construction, driveway, or other material in an
274 easement, the city may require the property owner to agree to indemnify and to hold the city
275 harmless from any or all costs or expenses incurred as a result of such location, placement,
276 construction, or installation in the easement.

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- G. The city may deny applications to place wells, fences, walls, or other materials in an easement if such would conflict with existing or proposed utilities or drainage functions.

Section. 5.1.7. Required visibility triangles.

As an aid to allow for safe operation of vehicles, pedestrians, and cyclists in the proximity of intersecting streets, driveways, alleys, and bicycle paths, there shall be limitations on the height of fences, walls, gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures as visually depicted in the Cape Coral Engineering and Design Standards and as follows:

- A. All landscaping and signs within the visibility triangle shall provide unobstructed visibility between 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard.
- B. The property owner shall be responsible for maintaining all landscaping within the visibility triangle to provide the unobstructed visibility.
- C. The Community Development Director shall make the final determination regarding visibility triangles.

Section 5.1.8. Sidewalks and alleys.

- A. Non-Residential Zoning Districts. As part of construction of each building erected in non-residential zoning districts (C, CC, I, INST, MX, MXB, MX7, NC, P, and SC) right-of- way improvements shall be installed prior to the issuance of a certificate of occupancy pursuant to the standards and specifications set forth in the City of Cape Coral Engineering Design Standards.
- B. All sidewalks shall be constructed in accordance with the City of Cape Coral Engineering Design Standards, except where a sidewalk has been installed and the established width is less than five feet, the minimum width of the sidewalk to be installed shall be the width of the existing sidewalk.
- C. Lot owners who develop property, erect buildings, or change the use on only a portion of a lot must provide the curbs, sidewalks, gutters, and lane widening for the entirety of the property, as required by this subsection, which shall be at the expense of the lot owner.
- D. As part of property development and construction of each building erected in the C, CC, I, INST, MX, MXB, MX7, NC, P, and SC zoning districts adjacent to a platted alley the alley shall be improved prior to the issuance of a certificate of occupancy. Such alley portion shall be constructed in accordance with the Engineering Design Standards along the length of the property line of the site lying adjacent to the platted alley. In addition to new construction in the C, CC, I, INST, MX, MXB, MX7, NC, P, and SC zoning districts, alterations to existing sites lying adjacent to a platted alley shall be required to make the alley improvements required by this section if the value of such alterations exceeds 50% of the replacement value of the site improvements. These improvements include parking areas, internal curbing, and retention areas but exclude internal, previously existing modifications to the building.

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323 E. Payment in Lieu of Construction. At the discretion of the City, the City may accept payment in lieu of
324 construction for all or part of the off-site improvements required by the City. For projects where
325 payment in lieu of construction will be employed, the developer shall submit to the City 110% of the
326 estimated cost of the improvements as prepared by a professional engineer licensed in the state of
327 Florida, which shall be reviewed and approved by the City. The developer shall provide the City with
328 payment for all construction costs prior to the issuance of a development permit for the site.
329

330 F. Right-of-way improvements shall be constructed only if the city has developed construction designs
331 for that roadway segment. In areas without city approved construction designs for a roadway
332 segment, construction of improvements shall be done through a city established special assessment
333 district.
334

335 . Residential. As part of the construction of each building erected in the R1, RML, RMM, RE, and A
336 zoning districts, sidewalks shall be required adjacent to streets designated for sidewalks by the
337 Comprehensive Plan Traffic Circulation Element and Bicycle Pedestrian Plan. This does not apply to
338 existing structures that are being remodeled or repaired.
339

Section 5.1.9. Work in the Public Right-of-Way and Public Utility Easements

340 A. General. Except as provided below, no construction, change, modification, or alteration of any
341 type or nature whatsoever, including the addition or removal of fill, vegetation, or other
342 materials, or the placement, installation, or erection of any object or vegetation, shall be allowed
343 within a city-owned right-of-way or swale, except as provided in Chapter 1 of this Article.
344
345
346

347 B. No permit required. The following work or activities shall be allowed in the public right-of-way or
348 roadway easement areas without the necessity of a city permit:
349

350 1. Trimming, cutting, or maintenance of trees, shrubs, and other vegetation existing as of the
351 effective date of this ordinance in the public rights-of-way or swales;
352

353 2. Markers, commonly known as buttons, turtles, or half-moons, may be placed 18 inches from
354 the edge of the pavement in residential zoning districts provided that such markers shall not
355 exceed a height of four inches. However, no markers shall be placed within any public right-
356 of-way which is adjacent to a roadway with four or more lanes;
357

358 3. Mailboxes may be placed in the public rights-of-way or swales so long as they are in
359 accordance with the City of Cape Coral Engineering Design Standards. The mailbox may be
360 immediately surrounded by a small bed consisting of landscape edging materials or concrete
361 curbing, bedding plants or groundcover, and mulch or decorative rock provided that such
362 decorative rock shall not exceed four inches when measured in any direction, pursuant to
363 Chapter 5 of this Article. In no event shall the diameter of the plant bed exceed two feet
364 when measured from the outer-most edges of any landscape edging material or concrete
365 curbing utilized. and
366

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367 4. A Registration Certificate is required to install landscaping material in the lateral right-of-way
368 areas between the roadway pavement and the private property line in accordance with
369 Section 5.5.19 of this Article.

370

371 C. Permit required. The following work or activities shall be allowed in the public right-of-way or
372 roadway easement areas provided that the property owner first obtains a permit from the city:

373

374 1. Culvert installation and appurtenant work;

375

376 2. Sod installation and appurtenant work;

377

378 3. Driveway installation and appurtenant work;

379

380 4. Curb, gutter, sidewalk, sod, and paving;

381

382 5. Alley improvements;

383

384 6. Installation of sprinkler systems. However, if the sprinkler system is disturbed, damaged, or
385 destroyed by the City performing work in the public right-of-way, the owner shall be solely
386 responsible for any cost resulting from such disturbance, damage to, or destruction of the
387 sprinkler system in the right-of-way; and

388

389 7. Planting in medians, cul-de-sacs, and roundabouts as permitted in Section 5.5.17 of this
390 Article.

391

392 D. Under no circumstances shall any of the activities permitted above result in any change,
393 modification, or alteration of any type whatsoever, to the established grade, slope, or contour of
394 the public swale or right-of-way not specifically addressed by the City of Cape Coral Engineering
395 Design Standards.

396

397 E. None of the prohibitions contained in this ordinance shall apply to any construction, change,
398 modification, or alteration within a public right-of-way or swale which is performed by or
399 required by a governmental entity or public utility.

400

401 F. Public Utilities. No public utility including electric, phone, cable tv, internet, cellular, or gas
402 company will be allowed to install or maintain facilities, begin construction, change, modify, or
403 alter in any way whatsoever the public right-of-way, swale, or adjacent public utility easements,
404 including the addition or removal of fill, vegetation, or other materials, without a permit as
405 required by the City of Cape Coral Code of Ordinances.

406

407 **Section 5.1.10. Maintenance of city rights-of-way.**

408

409 All property owners shall be responsible to either maintain or construct the city-owned right-of-way
410 lying between their property boundaries and the city pavement, to include the following standards.

411

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- 412 A. Prior to preparation of a building lot for construction, the building permit holder shall obtain the
413 correct swale flow line elevations from the City and proceed immediately to create the required
414 swale needed to allow continuous uninterrupted flow of stormwater throughout the construction
415 process.
416
- 417 B. During construction or reconstruction approved erosion control devices shall be placed in the swale
418 adjacent to both property lines to impede all foreign matter from entering the stormwater system.
419 The erosion control devices shall remain in place until placement of final sod in the right-of-way.
420
- 421 C. No excavated material or construction material shall restrict stormwater flow within the swale area.
422
- 423 D. Upon issuance of the certificate of occupancy, the owner shall maintain the swale indefinitely to
424 the same standard that is applied to privately-owned property.
425
- 426 E. All pavement damage must be repaired to meet or exceed the City of Cape Coral Engineering Design
427 Standards.
428

429 **Section 5.1.11. Building numbers and addresses.**
430

431 All buildings in the City of Cape Coral shall display a proper building number at least four feet from the
432 ground level. All building numbers shall be visible from the public right-of-way which the front of the
433 building faces. Building numbers of sufficient size which are affixed to both sides of mail boxes on such
434 right-of-way or building numbers which are affixed to lawful signs not attached to the building may be
435 substituted for number affixed to buildings.
436

437 **Section 5.1.12. General regulations for lots, yards, and setbacks.**
438

- 439 A. Double frontage other than corner lots. Double frontage other than corner lots shall meet front
440 setback regulations on all adjacent streets.
441
- 442 B. Corner lots. In the SC and MXB zoning district(s), corner lots shall be deemed to have front lot lines
443 abutting all street right-of-way lines. For corner lots in all other zoning districts, the following shall
444 apply:
445
- 446 1. The front of any building site shall be determined by the lesser dimension of a single lot (not
447 building site). This frontage shall have the established setback for the particular zoning district,
448 but in no instance be less than 25 feet.
449
 - 450 2. The remaining street frontage shall have a setback of no less than ten feet in all zoning districts.
451 The remaining street frontage shall be maintained as a front yard and the regulations for fences,
452 shrubbery, and walls of this ordinance shall apply.
453
 - 454 3. On sites bounded by three streets, one lot line shall be designated by the Director as the rear
455 and maintained as the rear setback of that zoning district. For purposes of this section, all but
456 the rear yard shall be maintained as a front yard and the regulations for fences, shrubbery, and
457 walls of this ordinance shall apply.

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458
459 4. The front of a single-family residential building shall not be offset from the front property line
460 by an angle greater than 45 degrees.

461
462 C. No parcel shall be reduced below the minimum dimensional requirements in the zoning district.
463 This provision shall not apply when a portion of a parcel is acquired for a public purpose.

464
465 **Section 5.1.13. Single-family residential standards**

466
467 In addition to all other provisions of this Code, single-family residential uses shall be subject to the
468 following requirements.

469
470 A. In the A, R1, and RE zoning districts only one single family residence shall be permitted per parcel.

471
472 B. Ornamental walls. Ornamental walls attached to the principal building shall have the following
473 requirements

474
475 1. Ornamental walls shall not be higher than four feet at any point where they extend beyond the
476 roof overhang and into the side setback.

477
478 2. Ornamental walls may extend into the side setback but shall not extend into the six-foot
479 perimeters easements.

480
481 3. An ornamental wall not to exceed 30 inches in height may be installed in the front yard.

482
483 4. Ornamental walls may be in the form of a planter.

484
485 4. A planter may be incorporated into the construction of a wingwall.

486
487 C. Water discharge. All gutter downspouts or similar water discharge devices shall direct the discharge
488 to the front or rear property lines. Refer to the City of Cape Coral Engineering Design Standards,
489 Section L, Drainage Design Standards for lot grading and drainage information.

490
491 D. For single-family or duplex construction activities on any site in a Special Flood Hazard Area, the
492 maximum amount of fill on-site shall be limited to 12 inches, unless otherwise approved by the
493 Building Official.

494
495 **Section 5.1.14. Multi-family residential.**

496
497 In addition to other provisions of this ordinance, single-family attached structures, duplexes, and multi-
498 family residential uses shall be subject to the following requirements.

499
500 A. Distance between buildings.

501
502 1. Clustered buildings. Buildings may be constructed on proper building sites in cluster style
503 providing a minimum of 20 feet is maintained between the buildings up to a height of 38 feet.

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- 504
- 505 a. One foot shall be added to the 20-foot distance for every foot of height increase over 38
- 506 feet.
- 507
- 508 b. Carports will not be considered in determining the 20-foot distance between buildings.
- 509
- 510 B. Water discharge.
- 511
- 512 1. All gutter downspouts or roof drains from multi-family buildings shall be directed to the water
- 513 management system.
- 514
- 515 2. All gutter downspouts or similar water discharge devices from duplexes shall direct the
- 516 discharge to the front or rear property lines. Refer to the City of Cape Coral Engineering Design
- 517 Standards, Section L, Drainage Design Standards for lot grading and drainage information.
- 518
- 519 C. Maximum Fill. For duplex construction activities on any site in a Special Flood Hazard Area, the
- 520 maximum amount of fill on-site shall be limited to 12 inches, unless otherwise approved by the
- 521 Building Official.
- 522

523 **Section 5.1.15. Dumpster Enclosures.**

524

525 Except where noted below, all sites with uses other than single-family residences and duplexes, shall

526 provide commercial trash receptacles in accordance with the regulations in this section.

527

- 528 A. Screening.
- 529
- 530 1. Except for the SC and MXB Districts, when commercial trash receptacles are in a rear yard that
- 531 abuts an alley, all commercial trash receptacles shall be enclosed from view on at least three sides
- 532 by an opaque visual barrier.
- 533
- 534 2. When a commercial trash receptacle is visible from an adjacent property or an adjacent street, at
- 535 ground level, then the commercial trash receptacle shall be enclosed on the fourth side by an
- 536 opaque gate that shall be the same height as the opaque visual barrier on the other three sides.
- 537
- 538 3. The principal structure may be used as the opaque visual barrier on one or more sides provided
- 539 the commercial trash receptacle is completely concealed from view.
- 540
- 541 B. Materials.
- 542
- 543 1. The following materials, either singly or in any combination, are the only materials that may be
- 544 used for the opaque visual barrier and gate:
- 545
- 546 a. Wood fencing;
- 547
- 548 b. Plastic or vinyl fencing;
- 549

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- 550 c. Concrete block and stucco wall;
551
552 d. Brick wall; or
553
554 e. Formed, decorative, or precast concrete.
555
556 2. Chain link fencing, whether singly, or combination with other materials, including plastic slats,
557 shall be prohibited.
558
559 3. Gates shall be constructed of a durable, opaque material, consistent or complimentary in color
560 with the enclosure and of a height to screen the container.
561
562 C. Location.
563
564 1. Commercial trash receptacles shall not be located on unimproved sites.
565
566 2. Commercial trash receptacles and accompanying visual barriers, are subject to the following
567 minimum setbacks:
568
569 a. Six feet from the front property lines in the SC and MXB Districts.
570
571 b. Three feet from alley rights-of-way.
572
573 3. When located in a public utility or drainage easement, the property owner shall be solely
574 responsible for removal of the commercial trash receptacle as well as for any cost resulting from
575 disturbance, damage, destruction, or restoration of the receptacle resulting from work associated
576 with utilities in such easement. Prior to issuing a permit, the City may require the property owner
577 to agree, in writing, to indemnify and to hold the city harmless from any costs or expenses
578 resulting from placing a commercial trash receptacle in an easement.
579
580 4. A commercial trash receptacle may be placed on an adjoining property provided that the premises
581 are adjacent to or directly behind the development and written consent of the adjoining property
582 owner is submitted to and approved by the Director. The adjoining property owner may revoke
583 this consent upon written notice to the development and the Director. The development shall
584 have 30 days from revocation to relocate the commercial trash receptacle and to comply with all
585 requirements of this section.
586
587 5. Developments within 25 feet of a City-owned parking lot may, upon approval by the Director,
588 locate enclosures on the City-owned parking lot. Approval may be revoked at any time, upon
589 reasonable notification, by the City.
590
591 D. Dimensions. The dumpster enclosure shall have a minimum interior dimension of ten feet by ten feet
592 and a height at least six inches higher than the enclosed commercial trash receptacle. Neither the
593 dumpster enclosure or the gate providing access to the commercial trash receptacle shall be
594 considered a fence or a wall pursuant to the City Code of Ordinances or Land Development Code.
595

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- 596 E. All dumpster enclosures shall be located so that a sanitation vehicle has physical access to the
597 commercial trash receptacle that is adequate for safely servicing the facility.
598
- 599 F. Each commercial trash receptacle shall be located on a concrete pad.
600
- 601 G. All solid waste or other refuse, including recycling materials stored in commercial trash receptacles,
602 shall be concealed by a lid attached that shall remain in the closed position unless materials are being
603 placed into the receptacle or the receptacle is being serviced. No material shall be permitted to
604 overflow the receptacle.
605
- 606 H. In the event a commercial trash receptacle is in a dumpster enclosure that includes a gate, regardless
607 of whether such a gate would have been required pursuant to this section, the gate shall be of a type
608 that opens sufficiently to allow unimpeded access to the trash receptacle by the sanitation vehicle
609 and shall have drop pins, hooks, or other devices installed to hold the gate open while the receptacle
610 is being serviced. All gates shall remain closed unless the receptacle is being serviced.
611
- 612 I. Deviations. In the event an owner is unable to comply with the requirements of this section, the owner
613 may request an administrative deviation from the Director. In determining whether to approve an
614 administrative deviation, the Director shall consider factors such as dimensions of the property, site
615 constraints such as existing development, or other location factors that may make compliance with
616 this section impossible or impractical. The determination to approve an administrative deviation shall
617 be at the sole discretion of the Director.
618
- 619 J. Maintenance. Commercial trash containers shall be maintained in a manner which is not a nuisance
620 to surrounding uses.
621
- 622 1. The receptacle shall be stored in the enclosure and the gate(s) to the enclosure shall remain closed
623 at all times unless it is being accessed at that time.
624
- 625 2. Refuse may not be left outside of the enclosure or on the ground within the enclosure.
626

627 **Section 5.1.16. Outdoor seating.**
628

629 Outdoor seating may be permitted as an accessory use to a restaurant, hotel, bar, or fraternal organization
630 provided the following conditions are met:
631

- 632 A. All outdoor seating:
633
- 634 1. Music may be permitted to be performed or amplified in outdoor seating areas, in accordance
635 with Section 12-22 of the City's Code of Ordinances, or in accordance with a permit per Chapter
636 9 of this Article.
637
- 638 2. Parking shall be provided at a rate of 1 parking space per 200 square feet of outdoor seating area.
639
- 640 B. Outdoor seating in public areas.
641

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- 642 1. The number of outdoor seats and tables shall be limited to that number that can be reasonably
643 accommodated according to the available widths of the associated storefront and sidewalk or
644 patio area. Adjacent sidewalk bulb-out areas, even if not directly in front of the associated
645 storefront, may be considered on an individual basis, when the affected storefront owner does
646 not object.
- 647
- 648 2. Clear pedestrian access shall be maintained at all times, and no seating or tables shall interfere
649 with ingress and egress to buildings or create an unsafe situation with street traffic.
- 650
- 651 3. The sidewalk café owner or operator shall remove any seating or tables when the business is
652 closed, or when an authorized agent of the city makes such a request.
- 653
- 654 4. Public sidewalks adjacent to any approved sidewalk café shall be properly maintained for safety
655 and cleanliness by the sidewalk café owner or operator on a daily basis. Litter, dirt, grime, grease,
656 and food shall not be permitted to accumulate at any time.
- 657
- 658 5. An indemnity agreement, provided by the director of Community Development shall be signed
659 and provided by the sidewalk café owner or operator, along with proof of public liability insurance
660 as approved by the city attorney.
- 661

662 **Section 5.1.17 Mixed-use Buildings**

663

- 664 A. The minimum dwelling unit size in mixed-use buildings shall be 500 square feet provided all
665 requirements of the Florida Building Code are met.
- 666
- 667 B. The non-residential design standards set forth in Article 5, Chapter 8 shall apply to all mixed-use
668 buildings
- 669
- 670 C. Parking for dwelling units.
- 671

672

673 **CHAPTER 2 ACCESSORY STRUCTURES**

674

675 **Section. 5.2.1. General Requirements.**

676

- 677 A. This chapter shall pertain to residential properties unless otherwise specifically stated herein.
678 Accessory structures on non-residential properties shall be reviewed per the standards of that zoning
679 district. Agriculturally zoned properties shall not be considered residential for purposes of this section.
- 680
- 681 B. Accessory buildings shall be constructed to conform to the minimum building requirements and shall
682 meet all other regulations applicable to the district.
- 683
- 684 C. Residential accessory buildings shall be in the rear yard, other than those listed in Section 5.2.1, and
685 shall comply with all of the requirements found in this Section.
- 686

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- 687 D. Accessory structures, such as pergolas, arbors, trellises, and flag poles may be in the rear, side, or
688 front yard of the primary structure. Fences and sheds may be permitted in the rear or side yard of the
689 primary structure.
690
- 691 E. No accessory structure, including fences, shall be constructed on any residential parcel not containing
692 a primary structure.
693
- 694 F. Accessory buildings shall be elevated above the base flood elevation (BFE) or provide hydrostatic
695 vents consistent with FEMA regulations.
696
- 697 G. All nonconforming accessory structures shall be subject to the requirements of Article 8
698 Nonconformities.
699
- 700 H. Any accessory structure not listed in this chapter may be reviewed and considered for approval
701 through a similar use determination process.
702
- 703 I. In non-residential districts, all accessory structures shall be reviewed and held to the same standard
704 as a non-residential structure.
705
- 706 J. Setbacks shall be measured from the property line and must be considered in addition to all other
707 locational requirements.
708

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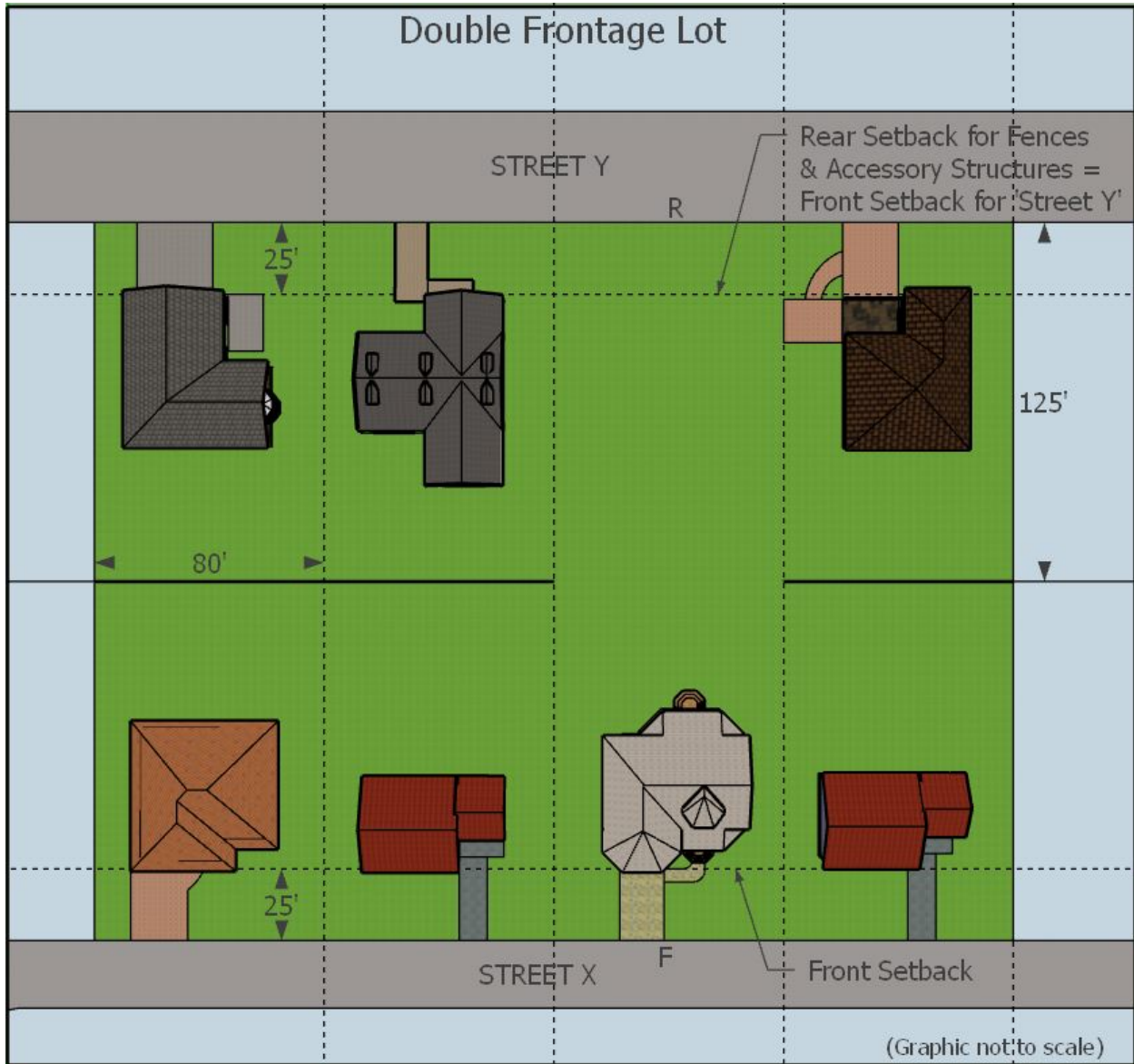
709 **Table 5.2.1.A. Setback Requirements for Accessory Structures.**

Residential Accessory	Setback – measured from property line			Maximum Building Height	Separation Distance
	Front Yard	Side Yard	Rear Yard		
Arbors, trellises, pergolas	Sec 5.17	7.5 ft.	10 ft.	14 ft.	N/A
Courts and Playing Surfaces	X	7.5 ft.	10 ft.	N/A	N/A
Decks, unenclosed	X	7.5 ft.	10 ft.	30 inches	N/A
Detached Garage	X	SAP	10 ft.	14 ft.	5 ft.
Fences and Walls	Per Sec 5.1.12				N/A
Flagpoles	15 ft.	7.5 ft.	10 ft.	35 ft.	N/A
Fountains and Sculptures	15 ft.	10 ft.	10 ft.	Per sec 5.1.15	N/A
Gazebo	X	7.5 ft.	10 ft.	10 ft.	5 ft.
Greenhouse	X	SAP	SAP	15 ft.	5 ft.
Detached guesthouse/ADU's	X	SAP	SAP	14 ft.	5 ft.
Swing sets and similar play structures	X	7.5 ft.	6 ft.	8 ft.	N/A
Solar Photovoltaic (PV) Arrays, at grade	X	7.5 ft.	10 ft.	9 ft.	N/A
Sheds	X	7.5 ft.	10 ft.	14 ft.	5 ft.
Sunshelter	X	7.5 ft.	6 ft. or over a dock	14 ft.	5 ft.
Swimming pools and reflecting pools	X, RE≥3 acres SAP	7.5 ft., RE≥3 acres SAP	10 ft., RE≥3 acres SAP	30 inches	N/A
Swimming Pool Screen enclosure	X, RE≥3 acres SAP	7.5 ft., RE≥3 acres SAP	10 ft., RE≥3 acres SAP	SAP	N/A

- X Not permitted
- SAP Same as Principle Structure
- N/A Not Applicable

710
711
712 **Diagram 5.2.1.B Double Frontage Lot Fence and Accessory Structure Requirements.**
713

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Section 5.2.2. Accessory Dwelling Units (ADUs)

A. All ADUs shall comply with the following:

1. An ADU may be within a single-family detached dwelling or a detached accessory building on the same lot as a principal dwelling.
2. The accessory dwelling unit must have a bathroom and shall share the same sewage disposal and water supply systems as the principal dwelling unit unless separate sewer and water connections are required by the City of Cape Coral.

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- 727 3. A minimum of one additional off-street parking space shall be provided. The additional space shall
728 be on the same lot as the principal dwelling unit.
729
- 730 4. No new access points or driveways shall be created or installed for access to the ADU.
731
- 732 5. The accessory dwelling may contain no more than a living area, one bedroom, one bath, and a
733 kitchen.
734
- 735 6. The owner of the property shall live in the principal dwelling or the ADU.
736
- 737 B. ADUs within a single-family dwelling shall comply with the following:
738
- 739 1. There shall only be one entrance to the front of the house. Separate entrances to an ADU are
740 permitted at the side or the rear of the principal dwelling unit.
741
- 742 2. If the ADU and the principal residence are on the same floor or story, the ADU shall be limited to
743 30 percent of the total living area of the principal dwelling or 800 square feet, whichever is less.
744 If the ADU is on a single floor or story and there is no increase in the size of the house, the entire
745 floor or story may be used for the ADU.
746
- 747 C. Detached structures serving as an ADU shall comply with the following:
748
- 749 1. May not exceed one story.
750
- 751 2. Must comply with the zoning district dimensional regulations.
752
- 753 3. Maximum building height shall not exceed 14 ft.
754
- 755 4. May not exceed 30 percent of the area of the primary structure or 800 square feet, whichever is
756 less.
757

758 **Section. 5.2.3. Arbors, trellises, and pergolas.**
759

- 760 A. Arbors, trellises, and pergolas shall be allowed as freestanding or attached structures. There is no limit
761 on the number of attached pergolas, arbors, and trellises per primary structure.
762
- 763 B. Freestanding pergolas and arbors are limited to 200 square feet of coverage per single-family
764 detached residential property. Freestanding pergolas and arbors are limited to 100 square feet per
765 unit of a duplex property.
766
- 767 C. The amount of freestanding square footage coverage for multi-family residential developments may
768 be determined by the Community Development Director. The criteria for this determination include:
769
- 770 1. Design, size, location, and number of proposed arbors, trellises, and pergolas;
771

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- 772 2. Design, size of property, location, and number of units of the multi-family residential
773 development; and
774
775 3. Whether the structure will be contrary to the public interest.
776
777 D. Attached pergolas.
778
779 1. Attached pergolas may be placed over the front entrance or walkway into a residence, and must
780 not extend beyond the most forward portion of the primary structure.
781
782 2. A pergola is considered attached if a minimum of 20% of the pergola’s perimeter is attached to
783 the primary structure.
784
785 3. A pergola that is attached to a previously-attached pergola is considered to be an extension of
786 the original attached pergola; the enlarged pergola must abide by the setback requirements listed
787 in Table 5.2.1.A.
788
789 E. Pergolas, generally.
790
791 1. Pergolas must conform to all zoning requirements in terms of height and setbacks.
792
793 2. The only exception to the prohibition of the placement of a pergola in the rear setback is for
794 pergolas on docks.
795
796 3. If placed in the rear yard of a waterfront property, or on a dock, pergolas must not unreasonably
797 restrict or block the view of the canal or waterway of an adjoining lot.
798

Section. 5.2.4. Attached and detached garages.

- 800
801 A. All single-family detached and each unit of a duplex structures shall include a garage with minimum
802 dimensions of 14 feet by 20 feet. Carports are prohibited on single-family detached and duplex
803 residential properties requiring a garage.
804
805 B. For attached garages, the following shall apply:
806
807 1. A garage shall be considered attached if it shares at least a four-foot length of common wall with
808 the principal structure. Attachment through a roof structure only shall not be adequate to
809 consider the garage attached.
810
811 2. For purposes of this LDC, an attached garage shall be considered to be a part of the principal
812 structure and shall comply with all district regulations for the zoning district in which it is located.
813
814 3. An operable garage door capable of providing access to the garage by a motor vehicle is required.
815

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- 816 4. A driveway providing vehicular access to the garage is required and shall be constructed and
817 maintained in a condition that is safe and free of potholes, and in accordance with the City of
818 Cape Coral Engineering Design Standards.
819
- 820 5. The garage shall not be included in determining the living area.
821
- 822 6. No garage or storage area shall be used as living quarters unless another garage is constructed
823 prior to conversion.
824
- 825 C. For detached garages, the following shall apply:
826
- 827 1. A detached garage shall meet all of the setback requirements of the principal structure.
828
- 829 2. A detached garage shall be on the same parcel as the principal structure.
830
- 831 3. A detached garage shall not exceed 800 square feet in area.
832
- 833 4. The height of a detached garage shall not exceed 14 feet in height when measured according to
834 the definition of "building height" in the Land Development Code.
835
- 836 5. An operable garage door capable of providing access to the garage by a motor vehicle is required.
837
- 838 6. The maximum size and height restrictions shall not apply in the RE district.
839
- 840 7. No plumbing shall be allowed in a detached garage except that a single one-compartment sink
841 shall be allowed.
842
- 843 8. The exterior building materials of a detached garage shall conform to the exterior building
844 materials of the principal structure.
845
- 846 9. A parcel may contain both an attached and detached garage, but only one detached garage shall
847 be permitted.
848

849 **Section. 5.2.5. Courts and playing surfaces.**
850

- 851 A. Requirements in the R1, RE, RML, and A districts.
852
- 853 1. Lighting is prohibited on all outdoor recreation facilities on all properties containing single-family
854 detached and duplex dwellings.
855
- 856 2. An opaque landscape hedge shall be planted between a recreational facility and a side or rear
857 property line of different ownership. The landscaping shall be maintained at a minimum of four
858 feet in height and shall be provided along the entire length of the recreational facility.
859
- 860 B. Requirements in the RMM or other districts with permitted multi-family uses.
861

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- 862 1. Lighting may be installed to allow evening use of the facility. All outdoor lighting shall be installed
863 and maintained in such a manner that the light falls substantially within the perimeter of the
864 property through the use of shielding and limitations on intensity. In no instance shall the facility
865 lighting create glare off of the property exceeding 0.3 footcandles which impacts any roadway.
866 Directional lighting may not be installed which shines directly into any dwelling unit.
867
- 868 2. An opaque landscape buffer, a minimum of four feet in height, shall be installed which shields the
869 recreational facility from any adjacent right-of-way. Fencing may be installed to a maximum
870 height of ten feet.
871

872 **Section. 5.2.6. Decks.**

- 873
- 874 A. Decks extending into rear or side yard may not exceed a height of 30 inches above grade. Decks over
875 30 inches in height shall meet all setbacks.
876
- 877 B. Deck height shall be measured from the walking surface of the deck, not the railing.
878
- 879 C. Railing shall be spaced in such a way as to allow air and light to pass through.
880

881 **Section. 5.2.7. Fences and walls.**

882

883 A. General Requirements.

- 884
- 885 1. All fences shall be of sound construction and not detract from the surrounding area.
886
- 887 2. No barbed wire, spire tips, sharp objects, or electrically charged fences shall be erected, except
888 as otherwise provided herein. This shall not be interpreted to mean that bona fide agricultural
889 users cannot use barbed wire or electrically charged fences to control livestock when located in
890 districts permitting the raising, keeping, or breeding of livestock.
891
- 892 3. No fences shall be placed within the visibility triangle.
893
- 894 4. If a fence or wall is located in a public utility or drainage easement, the property owner shall be
895 solely responsible for removal of the fence or wall as well as for any cost resulting from
896 disturbance, damage, or destruction of the fence or wall resulting from work associated with
897 utilities or drainage facilities, including those related to alley improvements within such
898 easement.
899
- 900 5. No fence shall enclose any utility meter, including water and electric service meters. The
901 location of any utility meters shall be shown in the permit application. This restriction shall not
902 apply to city maintained or constructed facilities.
903
- 904 6. Unless the posts or other supports used in connection with the fence or wall are visible from
905 and identical in appearance from both sides of the fence, all posts or other supports used in
906 connection with the fence or wall shall be on the side of the fence or wall that faces the property
907 on which it is to be erected. If a fence or wall is constructed in such a way that only one side of

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908 the fence is "finished", then the "finished" side of the fence shall face outward toward the street
909 or adjoining property (facing away from the property on which it is erected). The "finished" side
910 of the fence shall be the side that is painted, coated, or smoothed so as to be more decorative
911 in appearance.

912
913 7. Fencing for critical public utilities infrastructure, including water and wastewater facilities and
914 electric and natural gas facilities, which may enclose either an entire site or only an area
915 containing equipment, may be maintained at a height of eight feet. Barbed wire, spire tips,
916 sharp objects, or electrically charged fencing are permitted on the top of fencing around critical
917 infrastructure sites or equipment, however, the height of the fencing together with any barbed
918 wire, spire tips, sharp objects, or electrically charged fencing may not exceed eight feet, and
919 only the top two feet may contain barbed wire, spire tips, sharp objects, or electrically charged
920 fencing.

921
922 8. A fence shall not be constructed on unimproved property.

923
924 9. No wall or fence of any kind whatsoever shall be constructed on any lot until after the height,
925 type, design, and location has been approved in writing and proper permit issued by the
926 Director.

927
928 10. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must
929 immediately enclose the recreational facility. Hooded backstops for diamond sports may be
930 increased to a maximum height of 28 feet. For sports other than diamond sports, backstops
931 may be increased to a height of 12 feet. All fencing at recreational facilities must be constructed
932 of at least nine-gauge fence fabric and schedule 40 tubing.

933
934 11. A may be maintained at a height greater than otherwise allowed herein if a higher fence height
935 is required by the city for the purpose of screening a special exception use.

936
937 12. A fence or wall shall be constructed of one or more of the following materials:

- 938
939 1. Wood (decay resistant or pressure treated only), shall be painted or stained;
940
941 2. Concrete block with stucco (CBS);
942
943 3. Reinforced concrete with stucco;
944
945 4. Stone or brick, including cast (simulated) stone or brick;
946
947 5. Concrete;
948
949 6. Wrought iron;
950
951 7. Aluminum; or
952
953 8. Plastic or vinyl.

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For fences or walls located in a public utility or drainage easement, only the following materials are permitted:

1. Wood (decay resistant or pressure treated only);
2. Aluminum;
3. Chain-link without slats; or
4. Plastic or vinyl.

B. Residential Zoning Districts.

1. A No fence shall be maintained at a height greater than six feet, and no wall or fence shall be erected or placed within the front setback lines of any residential lot, except if a residential use abuts property used for commercial or professional purposes, a fence may be maintained at a height up to eight feet along the side(s) of the property which abut(s) the property or properties containing commercial or professional uses. For purposes of this section, a property shall be deemed to abut another property if the two properties are either immediately adjacent to each other or separated only by an alley. Properties separated by a street, canal, lake, or other body of water shall not be deemed to be abutting properties.
2. Any fencing within 20 feet of the rear property line on waterfront sites must be open mesh above a height of three feet. The Director may, in his or her discretion, approve minor projections above the restricted heights for architectural features.
3. No part of a fence shall be located forward of the forward-most part of the side of the principal structure to which the fence is closest. In no instance shall a fence enclose any portion of the front facade of the principal structure.
4. No fence, hedge, or other growth shall be erected on any residential property within the city which shall unreasonably restrict or block the view of a canal or other waterway from an adjoining lot, or except as required to screen a special exception use. No fence or hedge or other growth shall be erected on property which would obstruct the view of either a pedestrian or driver of a moving vehicle so as to create a hazard to the health and welfare of its citizens.
5. Multi-family developments over 1 acre in size may construct a fence or wall around the entire perimeter of the property or in a location not otherwise allowed by this subsection.

C. Non-Residential and Mixed-Use Zoning Districts.

1. Construction of fences must meet the following restrictions:
 - a. Maximum height: six feet (except that property in a commercial, professional, or mixed-use zoning district, which contains a non-residential use, and which abuts a residential use,

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1000 whether such use is in a residential zoning district or mixed-use zoning district, may erect a
1001 fence up to eight feet in height along the side(s) of the property which abut(s) a residential
1002 use. A property shall be deemed to abut another property if the two properties are
1003 immediately adjacent to each other or separated by only an alley. Properties separated by
1004 a street, canal, lake, or other body of water shall not be deemed to be abutting properties.
1005

1006 b. Required setbacks:
1007

Front	No part of a fence shall be located forward of the forward-most part of the side of the principal structure to which the fence is closest. In no instance shall a fence enclose any portion of the front facade of the principal structure.
Side (not on a corner site)	None
Side (corner site)	None for free-standing residential uses in mixed-use zoning districts; 7 feet for non-residential and compound uses in Marketplace Residential zoning district; 10 feet for non-residential and compound uses in all other commercial, professional, and mixed-use zoning districts
Rear (not on alley)	None
Rear (on alley)	10 feet

1008
1009 D. Multi-family developments over 1 acre in size may construct a fence or wall around the entire
1010 perimeter of the property or in a location not otherwise allowed by this subsection.
1011

1012 E. Industrial zoning district:
1013

- 1014 1. Maximum height: eight feet.
- 1015
- 1016 2. Required setbacks: none, except that fences shall be setback 10' from alleys.
- 1017
- 1018 3. Fencing shall provide an opaque visual barrier, constructed of materials which conform to
1019 applicable codes, to conceal storage areas.
- 1020

1021 F. Agricultural zoning district:
1022

- 1023 1. Maximum height: eight feet.
- 1024
- 1025 2. Required setbacks: none.
- 1026

1027 G. Institutional zoning district:
1028

- 1029 1. Maximum height: eight feet.
- 1030
- 1031 2. Required setbacks: none, except that fences shall be setback 10' from alleys.
- 1032
- 1033 3. Fencing shall provide an opaque visual barrier, constructed of materials which conform to
1034 applicable codes, to conceal storage areas.
- 1035

1036 H. Preservation zoning district:
1037

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- 1038 1. Maximum height: eight feet.
1039
1040 2. Required setbacks: none.
1041
1042 I. South Cape and MXB zoning district(s):
1043
1044 1. Maximum height.
1045
1046 a. When placed in front yards, 42 inches.
1047
1048 b. When not placed in front yards, six feet (except that a property which contains a non-
1049 residential use, and which abuts a property containing a residential use, whether such use
1050 is in a residential zoning district or mixed-use zoning district, may erect a fence up to eight
1051 feet in height along the side(s) of the property which abut(s) a property containing a
1052 residential use). For purposes of this subsection, a property shall be deemed to abut
1053 another property if the two properties are either immediately adjacent to each other or
1054 separated by only an alley. Properties which are separated by a street, canal, lake, or other
1055 body of water shall not be deemed to be abutting properties.
1056
1057 c. Fences, walls, and hedges may be maintained at a height greater than otherwise allowed
1058 herein if a higher height is required by the city for the purpose of screening a special
1059 exception use.
1060
1061 d. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must
1062 immediately enclose the recreational facility. Hooded backstops for diamond sports may be
1063 increased to a maximum height of 28 feet.
1064
1065 e. Required setbacks:
1066

Front	None
Side or rear (not on alley)	None
Side or rear (on an alley)	15 feet from the alley centerline
Abutting a navigable waterway	10 feet

- 1067
1068 **Section.5.2.8. Flags and Flagpoles.**
1069
1070 A. Residential zoning districts or sites with residential uses shall be limited to no more than two flagpoles.
1071
1072 B. In non-residential zoning districts, in mixed use zoning districts, and on sites containing non-
1073 residential uses in residential zoning districts, no more than three flagpoles are allowed on a site.
1074
1075 C. Flagpoles shall not exceed 35 feet in height other than those on non-residential properties abutting
1076 Pine Island Road which shall not exceed 80 feet in height.
1077
1078 D. The installation of a flag standard on a site does not require a permit. The number of flags that may
1079 be displayed on a flagpole or on a single flag standard is not limited.
1080

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1081 E. For the purposes of this article, flags on non-residential, private property which contain a symbol
1082 other than that of a nation, government, political subdivision, or other entity shall be presumed
1083 commercial; however, it shall be considered a rebuttable presumption, which may be overturned by
1084 the Director if the evidence contradicting it is true or if a reasonable person of average intelligence
1085 could logically conclude from the evidence that the presumption is not valid.
1086

Section. 5.2.9. Fountains, reflecting pools, and sculptures.

- 1087
1088
1089 A. Fountains and sculptures shall not to exceed 12 feet in height.
1090
1091 B. Reflecting pools greater than 24 inches in depth deep shall be fenced for safety.
1092

Section. 5.2.10. Gazebos, sun shelters, and similar structures.

- 1093
1094
1095 A. Gazebos, sun shelters, and similar structures on residential single-family detached or duplex parcels
1096 may not exceed 150 square feet in roof coverage. The total area of all such structures shall not exceed
1097 300 square feet.
1098
1099 B. All structures in all other zoning districts may not exceed 300 square feet.
1100
1101 C. The maximum height shall not exceed 14 feet above grade from the lowest point of the grade under
1102 the shelter, including overhangs.
1103
1104 C. These structures shall not be constructed within six feet of any rear lot line except on waterfront lots
1105 where sun shelters are permitted to be constructed on docks. These structures shall not overhang the
1106 edges of the dock or be constructed over an easement.
1107

Section. 5.2.11. Guest houses.

- 1108
1109
1110 A. Detached structures serving as a guest house shall comply with the following:
1111
1112 1. Guest Houses shall only be on constructed on sites with a principal residential dwelling unit.
1113
1114 2. May not exceed one story.
1115
1116 3. Maximum building height shall not exceed 14 ft.
1117
1118 4. May not exceed 30% of the area of the primary structure or 800 square feet, whichever is less.
1119
1120 B. A guest house is not a dwelling unit to be rented, it provides only guest accommodations and shall
1121 meet the following requirements:
1122
1123 1. A guesthouse may not contain more than two bedrooms.
1124
1125 2. A guesthouse may not contain a kitchen or the electrical or gas connections to install a stove or
1126 oven.

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- 1127
1128 3. An additional parking space must be provided for a guesthouse.
1129

1130 **Section. 5.2.12. Play or recreation equipment.**
1131

- 1132 A. On residential single-family detached and duplex properties, the City shall not be responsible for
1133 permitting and inspection of play equipment.
1134
1135 B. Play equipment for other than single-family detached and duplex properties must be permitted and
1136 inspected prior to any use.
1137

1138 **Section. 5.2.13. Sheds and greenhouses.**
1139

- 1140 A. The maximum height of a shed or greenhouse shall not exceed 15 feet in overall height.
1141
1142 B. The maximum floor area shall not exceed 200 square feet.
1143
1144 C. Sheds and greenhouses are allowed in the R1, RML, RE, and A districts.
1145
1146 D. A lot may contain no more than one shed and one greenhouse.
1147
1148 E. Sheds and greenhouses may be within the side yard of a parcel so long as the shed or greenhouse is
1149 screened. Screening is required for that portion of the wall of the shed or greenhouse that is visible
1150 from the right-of-way and the nearest adjoining residential property. A wall, fence, shrubs, or a
1151 combination thereof may be used to meet screening requirements as follows:
1152
1153 1. If an opaque wall or fence is used for screening, the wall or fence shall be six-feet in height. The
1154 wall or fence may be constructed of wood, vinyl, or a material that has the appearance of wood
1155 or vinyl, or the wall may be masonry, but not be unfinished concrete block. All other materials are
1156 prohibited. A screening wall with a continuous foundation may not encroach into any easement.
1157
1158 2. Alternatively, sheds or greenhouses may be screened with shrubs that meet the following
1159 requirements:
1160
1161 a. A row of shrubs planted along both sides of the shed and extend at least five feet beyond the
1162 walls of the shed or greenhouse.
1163
1164 b. All shrubs required for screening within this subsection shall be a minimum of 32 inches in
1165 height and be in at least a seven-gallon container size at the time of planting. All shrubs shall
1166 be planted no more three feet apart as measured on center.
1167
1168 c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be
1169 maintained in good condition as long as the shed requires screening pursuant to this
1170 subsection.
1171

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- 1172 3. A shed or greenhouse that would be visible from the right-of-way or from the nearest adjoining
1173 property, but for an existing fence, wall, or landscaping that shields the shed or greenhouse is
1174 exempt from additional screening requirements. In the event the screening is removed or altered
1175 to cause the shed or greenhouse to be visible from the right-of-way or nearest adjoining property,
1176 the shed or greenhouse shall be screened in accordance with those requirements outlined above
1177 or moved to fully comply with this Section.
1178
- 1179 4. On a double frontage lot, sheds or greenhouses shall be screened from view from rights-of-way
1180 and adjoining properties. See Diagram 5.2.1.B. Double frontage lot fence and accessory structure
1181 requirements.
1182
- 1183 5. On double frontage lots, sheds or greenhouses in the rear yard shall be setback to a distance
1184 equivalent to the front setback of any adjacent lots that are not double frontage lots.
1185

1186 **Section. 5.2.14. Solar Photovoltaic (PV) Arrays.**

1187
1188 A. General requirements.
1189

- 1190 1. Permitted accessory equipment. Rooftop photovoltaic solar systems shall be deemed permitted
1191 accessory equipment for all buildings in all zoning categories. Nothing contained in this chapter
1192 shall be deemed to prohibit the installation of rooftop photovoltaic solar systems on buildings
1193 containing legally nonconforming uses.
1194
- 1195 2. Maintenance. The photovoltaic system shall be properly maintained and be kept free from
1196 hazards, including faulty wiring, loose fastenings, or being maintained in a condition that is unsafe
1197 or detrimental to public health, safety, or general welfare.
1198
- 1199 3. Abandonment. Abandoned or unused freestanding solar energy systems not in use for a period
1200 of 18 months shall be removed at the owner's expense.
1201

1202 B. Building-mounted PV systems.
1203

- 1204 1. Roof mounted:
1205
- 1206 a. Notwithstanding the height limitations of the zoning district, building mounted solar energy
1207 systems shall not extend higher than three feet above the ridge level of a roof, for structures
1208 with gable, hip, or gambrel roofs and shall not extend higher than 10 feet above the surface
1209 of the roof when installed on flat or shed roof.
1210
- 1211 b. The solar collector surface and mounting devices shall be set back not less than one foot from
1212 the exterior perimeter of a roof for every one foot that the system extends above the roof
1213 surface on which the system is mounted. Solar energy systems that extend less than one foot
1214 above the roof surface shall be exempt from this provision.
1215
- 1216 2. Wall mounted or flush to a building or structure:
1217

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- 1218 a. PV arrays are allowed on the walls or sides of any building or structure but shall not encroach
1219 into the required front yard setback and may not encroach into side and rear yard setback by
1220 more than three feet and shall not extend into or over an easement.
1221
1222 b. A minimum of nine feet vertical distance shall be maintained under the PV array where
1223 needed to provide adequate clearance for pedestrians.
1224
1225 c. To the maximum extent possible, wall mounted PV arrays shall be designed as compatible to
1226 the structure and surface to which it is attached.
1227
1228 C. At-grade PV systems.
1229
1230 1. Exemptions. The restrictions of this Subsection with respect to height, location, and setbacks are
1231 not applicable to any accessory component to a freestanding outdoor lighting fixture, telephone
1232 pole, parking meter, or any other similar structure, as determined by the city.
1233
1234 2. Height. The maximum height of any at-grade PV array shall not exceed twelve feet, except for
1235 residential locations, as established in subsection 3., below.
1236
1237 3. Residential location. For PV arrays in or abutting residential zoning districts, the following
1238 requirements apply:
1239
1240 a. PV arrays up to six feet in height are allowed;
1241
1242 b. PV arrays shall be setback at least seven and one-half feet from interior side property lines
1243 and 10' from rear property lines;
1244
1245 c. PV arrays are not allowed within the front setback or front yard of a residentially zoned
1246 property; and
1247
1248 d. The area of the solar collector surface of freestanding solar energy systems shall not exceed
1249 five percent of the lot area.
1250
1251 4. Commercial location. For PV arrays in non-residential zoning districts and not adjacent to
1252 residentially zoned property, at-grade PV systems must meet all setback requirements for a
1253 structure within the zoning district.
1254
1255 5. The supporting framework for freestanding solar energy systems shall not include unfinished
1256 lumber.
1257

Section. 5.2.15. Swimming Pools.

- 1258
1259
1260 A. Location of pools; fencing, safety rails; solar screens.
1261
1262 1. The construction of a swimming pool, spa, or hot tub is prohibited in the front or side of any
1263 single-family or duplex residential structure, except as permitted in the RE district on parcels of

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1264 3 acres or larger. All residential swimming pools, spas, or hot tubs shall be enclosed by
1265 screening. The pool area or the entire back yard shall be enclosed with a minimum four-foot
1266 high fence. When fencing a waterfront yard, the fence shall extend to and no further than the
1267 water side of the seawall cap, otherwise the fence shall extend across the back yard to the rear
1268 of the swimming pool. This fencing or enclosure must be completed before the pool is filled
1269 with water over 24 inches in height and before a final inspection.

1270
1271 2. Swimming pools, unroofed pools, enclosed pools, or screen enclosures only with open-mesh
1272 screening shall be placed at the rear of the principal structure only, and not less than ten feet
1273 from the rear property line of any residential parcel. Pools, enclosed pools, or screen enclosures
1274 may not extend more than ten feet beyond the side of the structure or into required side setbacks.
1275 Any part of a pool or screen enclosure covered by a roof or enclosed by side walls over six feet in
1276 height shall be subject to the limitations regarding location of the structure. The minimum
1277 distance requirement from a lot line shall be measured from the exterior of the screen enclosure
1278 for a screen enclosure or an enclosed pool and from the waterline of an unenclosed pool. In no
1279 instance shall any pool, pool enclosure, or screen enclosure, be placed within a utility or drainage
1280 easement.

1281
1282 B. In the event that the swimming pool, spa, or hot tub is secured by a screened enclosure or
1283 permanent fence and the screened enclosure or permanent fence is damaged by a fire, accident,
1284 or severe weather event such as a hurricane, to the extent that the screened enclosure or
1285 permanent fence is no longer securing the swimming pool, spa, or hot tub, then a temporary mesh
1286 safety barrier that meets the minimum requirements set forth in subsection .1B.2. above shall be
1287 installed to secure the swimming pool, spa, or hot tub.

1288
1289 The temporary mesh safety barrier shall be installed as soon as practical but in no event more than
1290 ten days after such fire, accident, or severe weather event.

1291
1292 The temporary mesh barrier may remain in place for a period not to exceed 90 days after the fire,
1293 accident, or severe weather event. The Director of the Department of Community Development,
1294 may extend the time period stated herein upon satisfactory evidence that the property owner has
1295 contracted with a licensed contractor to replace the screened enclosure or permanent fence that
1296 was damaged by the fire, accident, or severe weather event.

1297
1298 C. All swimming pools shall have adequate safety rails. When swimming pools are constructed in front
1299 or at the side of a single-family attached or multi-family dwelling of three or more units, an opaque
1300 or semi-opaque screen not less than four feet nor more than six feet in height shall be erected in
1301 addition to the fence or screening requirements of § 3.10.1A.

1302
1303 1. Parallel to and toward the street lot line no less than the length of the pool when the pool is on
1304 the street side of the building; and

1305
1306 2. Parallel to the side and front lot lines no less than the length and width of the pool when the
1307 pool is on the side or end of the building

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- 1310 D. Pools, hot tubs, and pool decks in rear or side yards may not exceed a height of 30 inches above grade.
1311
1312 E. All swimming pools and enclosures constructed or erected on any parcel, other than accessory to a
1313 single-family detached or duplex residence, shall meet the minimum yard requirements specified for
1314 buildings or structures in the zoning district the construction occurs.
1315
1316 F. Portable swimming pools. Portable swimming pools are prohibited in the front or the side of any
1317 residential lot. Portable swimming pools capable of holding 24 inches in depth or more of water shall
1318 be anchored into the ground sufficiently to prohibit movement during a hurricane. Portable pools
1319 shall be enclosed by a fence or other protective material, or otherwise shall be covered, when not in
1320 use, by a protective cover so that a child cannot accidentally enter the pool. Drainage of pools so as
1321 to permit the water to run onto property of other people is prohibited. Wading or splash pools not
1322 capable of holding 12 inches or more of water are exempt from the provisions of this subsection.
1323

1324 **Section. 5.2.16. Unattended donation bins.**
1325

- 1326 A. Unattended donation bins are prohibited except within commercial developments and subject to the
1327 following requirements:
1328
1329 B. Unattended donation bins are permitted only on sites with a minimum of 125 parking spaces;
1330
1331 C. Bins may not be in a required parking space or a drive aisle;
1332
1333 D. Bins may not be placed in required landscape buffers and trees may not be removed in order to locate
1334 a bin;
1335
1336 E. Bins shall be maintained in good condition and appearance with no structural damage, holes, or visible
1337 rust and shall be free of graffiti;
1338
1339 F. Bins shall be locked or otherwise secured;
1340
1341 G. Bins shall contain contact information in accordance with F.S. Chapter 496.4121; and
1342
1343 H. Bins shall be serviced and emptied as needed, but at least once per month, or within five business
1344 days of a request by the City. Boxes, garbage, and donation goods shall not be permitted to
1345 accumulate around unattended donation bins.
1346

1347 **CHAPTER 3. Land Clearing, Filling, Extraction, and Construction Sites.**
1348

1349 **Section 5.3.1. Borrow pits; regulation of removal or extraction of dirt, soil, sand, rock, oil, gas, etc.;**
1350 **procedures.**
1351

- 1352 A. Removal or extraction of dirt, soil, and sand.
1353
1354 1. All borrow pits from which dirt, sand or soil has been removed shall be completely enclosed by
1355 a fence or earth berm at least six feet in height.

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2. Prior to any such removal or excavation, the following shall be submitted to the Department of Community Development: drainage plans, aerial photo of the site, a plan for development of the total site when the removal is completed, the estimated costs of restoring the site to a safe and developable condition, and a deposit of funds or other financial instruments payable to the City of Cape Coral is required equal to the estimated cost of restoring the site. The estimated cost for restoring the site shall include fence or berm removal, lake bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other items that the Department, Hearing Examiner, or Council deems appropriate to ensure that the site is restored to a safe and usable condition. The plans shall be reviewed by the Hearing Examiner and written recommendation made to the Council prior to application for an excavation permit.
 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner subject to final approval of the City Council.
- B. Removal or extraction of rock, gravel, shell, aggregate, or marl.
1. All such excavations and extractions shall be sealed by fencing or grading or other device from general public access. All entrances to said excavation shall be fenced and locked during nonbusiness hours.
 2. Prior to any such removal or excavation, the following shall be submitted to the Department of Community Development: drainage plans, aerial photograph of the site, a plan for development of the total site when the removal is completed, the estimated costs of restoring the site to a safe and developable condition, and a deposit of funds or other financial instruments payable to the City of Cape Coral is required equal to the estimated cost of restoring the site. The estimated cost for restoring the site shall include fence or berm removal, lake, bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other items that the Department, HEX, or Council deems appropriate to ensure that the site is restored to a safe and usable condition. The plans shall be reviewed by the HEX and written recommendation made to the Council prior to application for an excavation permit.
 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner subject to final approval by the City Council.
 4. No excavation or extraction may be made with explosives without express permission of the Council. Excavation or borrow pit permits involving explosives must be renewed every 90 days.
- C. Excavations, removal, or extraction for purposes of oil or gas exploration or production.
1. All such excavations, removals, or extractions shall be sealed by fencing or grading or other device from general public access. All entrances shall be fenced and locked during nonbusiness hours.
 2. Prior to any such excavation, removal, or extraction the following shall be submitted to the Department of Community Development: drainage plans, aerial photograph of the site, a plan

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1402 for development of the total site when the removal is completed, the estimated costs of
1403 restoring the site to a safe and developable condition, and a deposit of funds or other financial
1404 instruments payable to the City of Cape Coral is required equal to the estimated cost of
1405 restoring the site. The estimated cost for restoring the site shall include fence or berm removal,
1406 lake, bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other
1407 items that the Department, Hearing Examiner, or Council deems appropriate to ensure that the
1408 site is restored to a safe and usable condition. The plans shall be reviewed by the HEX and
1409 written recommendation made to the Council prior to application for an excavation permit. No
1410 permit to drill a gas or oil well shall be issued unless City Council approves the application for
1411 such permit by resolution.
1412

1413 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner
1414 subject to final approval by the City Council.
1415

1416 4. No excavation or extraction may be made with explosives without express permission of the
1417 Council. Excavation permits involving explosives must be renewed every 90 days.
1418

1419 5. No person or entity may engage in any oil and gas exploration or production that utilizes well
1420 stimulation within the corporate boundaries of the City of Cape Coral or, consistent with F.S.
1421 §377.24(6), within the tidal waters of the state abutting or immediately adjacent to the
1422 corporate limits of the municipality, or within three miles of the City's corporate limits
1423 extending from the line of the mean high tide. As used in this section, the term "well
1424 stimulation" shall mean a well intervention, exploration, operation, or maintenance procedure
1425 performed by injecting fluid into a rock formation in order to increase production at an oil or
1426 gas well by improving the flow of hydrocarbons from the formation into the wellbore. Well
1427 stimulation does not include routine well cleaning that does not affect the integrity of the well
1428 or the formation.
1429

1430 D. Procedures.
1431

1432 1. The applicant shall meet with the Director and other city staff deemed appropriate by the
1433 Director prior to a public hearing with the Hearing Examiner to review staff concerns and to
1434 establish the basis for determining cost estimates as required.
1435

1436 2. All excavation or borrow pit requests shall be reviewed by the city staff, the Lee County Health
1437 Department, and the Hearing Examiner. After their review and recommendation, the City
1438 Council shall call for a public hearing on the application and shall determine whether or not said
1439 application shall be granted.
1440

1441 3. If the conceptual plan as presented by the applicant will require a zoning amendment for
1442 development, the applicant must prepare and submit a planned development project for the
1443 entire project prior to approval of the excavation.
1444

1445 4. If the excavation or borrow pit application is approved, the applicant may then apply for an
1446 excavation or borrow pit permit.
1447

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1448 **Section. 5.3.2. Land Clearing, Filling, and, Excavation.**
1449

1450 A. Proposed alterations to ground elevation or vegetative cover not associated with an approved Site
1451 Development Plan, Final Subdivision Plan, or building permit shall be submitted to the Director with
1452 an application for a permit for Land Clearing and Fill containing the required plans and documentation.
1453 The director may require certification by a registered professional engineer that site improvements
1454 have been made in accordance with permits issued pursuant to this Section.
1455

1456 B. The following activities shall require a site improvement permit:
1457

- 1458 1. Clearing of trees and vegetation without disturbing the soil surface;
- 1459 2. Clearing including stump removal and grubbing of top soils; and
- 1460 3. Filling.
- 1461
- 1462
- 1463

1464 C. Maintenance:
1465

- 1466 1. The applicant shall be responsible for the maintenance, repair, and replacement of all existing
1467 vegetation as may be required by the provisions of Chapter 8.
1468
- 1469 2. In buffer areas and areas outside the impervious cover, plant material shall be tended and
1470 maintained in a healthy growing condition and free from refuse and debris. Plant materials
1471 required by Chapter 8 of this article which is unhealthy, dying, or dead shall be replaced during
1472 the next planting season.
1473

1474 D. Excavation involving more than surface contouring for erosion control is only permitted with approval
1475 of a Site Development Plan or Subdivision Construction Plan.
1476

1477 E. In all districts, other than agriculture zoning, the city shall not permit any new borrow pits or mining
1478 activities, however, reshaping or restoration of existing borrow pits may only be permitted incidental
1479 to an approved Site Development Plan or Subdivision Construction Plan. Agriculturally zoned lands
1480 may propose new borrow pits as a Special Exception.
1481

1482 F. The following land clearing activities shall not require a permit:
1483

- 1484 1. Removal of invasive plants without disturbance of the soil; or
- 1485 2. Land clearing for agricultural uses.
1486
1487

1488 **Section. 5.3.3. Construction Site Maintenance.**
1489

1490 Construction sites shall be maintained in a manner which is non-deleterious to nearby properties. The
1491 requirements of this Section set minimum standards for the operation of the project site to eliminate or
1492 minimize impacts to the site and to the neighborhood to include vehicle parking and loading area, traffic
1493 control, fencing, placement of materials, safety, neatness, and cleanliness.

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- 1494
1495 A. Construction site management plan required. All development and building permit applications must
1496 be accompanied by a construction site management plan, unless waived by the building official or
1497 development services manager.
1498
1499 1. Parking plan shall include:
1500
1501 a. Location of on-site and adjacent unpaved portion of the right-of-way parking and the
1502 maximum number of vehicles that will be parked along the unpaved portion of the right-of-
1503 way.
1504
1505 b. Parking plan for worker vehicles and machinery on the site.
1506
1507 c. A single access with dimensions.
1508
1509 2. A temporary fence location, height, and type shall comply with the following:
1510
1511 a. For the purposes of construction site screening only, chain link fencing is permitted and shall
1512 be faced with a screen mesh.
1513
1514 b. A maximum height of six feet in residential zoned properties and eight feet in commercially
1515 zoned properties.
1516
1517 c. Fencing may not be required in agriculture or preservation zoned properties, upon a
1518 determination by the Director.
1519
1520 3. Construction trailers, loading and unloading areas, and material storage areas shall not be stored
1521 in areas intended for stormwater retention or rain gardens.
1522
1523 4. Traffic control plans shall include:
1524
1525 a. Access points with dimensions;
1526
1527 b. Area to be stabilized and a written plan on staging of construction related traffic including
1528 adequate parking (both on and off-site); and
1529
1530 c. Plan for delivery of materials.
1531
1532 B. Approval of plan and waivers. The building official or development services manager shall review,
1533 approve, or deny the construction site management plan and is authorized to grant waivers from
1534 submittal requirements:
1535
1536 1. If the requirement is unrelated to proposed development;
1537
1538 2. If the impact of the proposed development is negligible in that submittal requirement area; or
1539

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1540 3. If unusual site conditions do not allow full compliance with this Section.
1541

1542

CHAPTER 4. MARINE IMPROVEMENTS.

1543

Section. 5.4.1. Purpose and Intent

1544

1545
1546 In order to allow all waterfront property the same ability to utilize and access adjacent waterways, the
1547 development of docks, wharves, mooring piles, and watercraft moorings must be accomplished in a
1548 standard and unified manner. Boat slips and docks may be constructed by the owner of a waterfront lot,
1549 with adequate water frontage, where a principal building exists.
1550

1551

Section. 5.4.2. General Requirements.

1552

1553 A. An applicant who disagrees with the measurement of the calculated waterway width by the city's
1554 Geographic Information System (GIS) may submit a survey of the waterway width, prepared by a
1555 professional surveyor licensed in the state of Florida, to support the applicant's contention that the
1556 calculated waterway width is inaccurate.
1557

1558

1559 B. No dock or piling shall be permitted that interferes with the right to navigate safely within the
1560 waterways of the city. In no event shall the navigable area be reduced to less than 50% of the
1561 calculated waterway width.

1562

1563 C. The elevation of pilings shall not exceed 10 feet above the seawall cap or, if no seawall exists, 13 feet
1564 above mean water level.

1565

1566 D. The elevation of the decking of a marine improvement shall not exceed two feet above the seawall
1567 cap, or if no seawall exists, five feet above mean water level. For marine improvements in the
1568 Caloosahatchee River, and for marine improvements in canals within 300 feet of the platted shoreline
1569 of the Caloosahatchee River, the elevation of the decking shall not exceed four feet above the seawall
1570 cap, or if no seawall exists, seven feet above mean water level.

1571

1572 E. All pilings or mooring posts shall be offset a minimum of two and one-half feet from any storm drain
1573 outfall pipe. Such measurement shall be made from the outside edge of the outfall pipe to the center
1574 of the piling or mooring post.

1575

1576 F. All docks permitted under this Section that project from a parcel with a seawall shall have a ladder
1577 extending from the dock into the waterway. No ladder extending from a dock into a waterway shall
1578 be made of wood.

1579

1580 G. The property owner shall be solely responsible for compliance with all applicable provisions of the Lee
1581 County Manatee Protection Plan.

1582

1583 H. Prior to the final inspection by the City, the owner shall submit a final signed and sealed survey
1584 showing that all construction is in compliance with the requirements of this Code.
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1585

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1586 **Section. 5.4.3. Dimensional Standards**

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- A. Protrusions into waterway.
1. Marine improvements may extend 25% of the calculated waterway width or 40 feet, whichever is less, as measured from the water frontage line, provided the marine improvements are setback 12 feet from each extended side property line.
 2. Marine improvements which extend six feet or less into a waterway such as captains' walks, as measured from the water frontage line, may extend the full length of the water frontage of the parcel.
 3. Marine improvements in the Caloosahatchee River shall be subject to state and federal regulations.
 4. Marine improvements for outside corner parcels, excluding a "T" intersection, of two canals, may extend into the waterways as follows:
 - a. Extend the two waterfrontage lines (Diagram 5.4.3.A.) of the property to a point equal to 25% of the canal width or 40 feet, whichever is less.
 - b. Then, in each intersecting canal, the extended waterfrontage lines shall run parallel to the waterfrontage lines and shall be setback 12 feet from the extended side property line.
 - c. The area formed by the aforesaid lines and area of intersection, shall be the area permitted for marine improvements.
 5. Marine improvements for end parcels. Parcels at or adjacent to canal ends or parcels on lakes and basins (excluding outside corner parcels) are subject to the following:
 - a. Except for parcels governed by Section 5.4.3.A, end parcels shall be permitted to have marine improvements projecting into the waterway up to a maximum of 30 feet. Adjacent parcels shall be permitted to have marine improvements projecting into the waterway up to a maximum of 30 feet or 25% of the calculated canal width, whichever is less.
 - b. With respect to end parcels with at least 80 feet of water frontage line, no part of a marine improvement which extends more than six feet in to a canal shall be located less than 12 feet from the ends of the water frontage line of the parcel. See Diagrams 5.4.3.A. & J
 - c. With respect to end parcels with more than 40 feet, but less than 80 feet, of water frontage line, any part of a marine improvement which extends more than six feet into a canal shall be set back from the ends of the water frontage line of the parcel in accordance with the following formula: $(\text{Parcel Waterfrontage} - 40 \text{ feet}) \times 0.3$. The foregoing restrictions shall apply to marine improvements projecting from adjacent parcels (based on the length of their waterfrontage lines) in the same manner as end parcels, except that on the side of the adjacent parcel that abuts an end parcel, a marine improvement may be built up to the side

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- 1632 boundary of the adjacent parcel's marine improvement area, as determined pursuant to
1633 paragraph 10.b below. See Diagram 5.4.3.H
1634
- 1635 d. With respect to end and adjacent parcels with 40 feet or less of water frontage, no marine
1636 improvement shall extend more than six feet into the canal except in accordance with the
1637 following: $(\text{Parcel Waterfrontage} - 40 \text{ feet}) \times 0.3$. The foregoing restrictions shall apply to
1638 marine improvements projecting from adjacent parcels (based on the length of their
1639 waterfrontage lines) in the same manner as end parcels, except that on the side of the
1640 adjacent parcel that abuts an end parcel, a marine improvement may be built up to the side
1641 boundary of the adjacent parcel's marine improvement area, as determined pursuant to
1642 paragraph 10.b below.
1643
- 1644 e. With respect to end and adjacent parcels with 40 feet or less of water frontage, no marine
1645 improvement shall extend more than six feet into the canal except in accordance with the
1646 following:
- 1647 i. Such a parcel may have either a platform dock not more than ten feet wide and extending
1648 not more than 16 feet into the canal or not more than two finger piers (with or without a
1649 boat lift) that together total no more than six feet in deck width and that extend not more
1650 than 30 feet into the canal.
- 1651 ii. No marine improvement that projects more than six feet into the canal shall extend more
1652 than ten feet either side of the center point of the water frontage line of the parcel.
1653 Furthermore, no marine improvement shall extend beyond the ends of the water
1654 frontage line of the parcel. All marine improvements shall be centered on the centerline
1655 of the waterfront parcel's marine improvement area. See Diagram 5.4.3.F
1656
- 1657 7. When a parcel is at the corner of a waterway so as to include water frontage (all under the same
1658 ownership) on both the side and end of a waterway, the property owner may install or erect a
1659 marine improvement that extends from the side of the waterway to a maximum distance of 25%
1660 of the calculated width of the waterway or 30 feet, whichever is less, and from the end of the
1661 waterway a distance of 30 feet into the waterway.
1662
- 1663 8. Except as otherwise provided herein for joint marine improvements, no marine vessel (or any part
1664 thereof) when secured in any way to a marine improvement projecting from an end parcel, an
1665 adjacent parcel, or a parcel on a lake or basin (excluding outside corner parcels) shall extend
1666 beyond the boundaries of the marine improvement area of the parcel unless prior written consent
1667 of the affected property owner is obtained. Such consent shall be revocable by the affected
1668 property owner and shall automatically terminate in the event the ownership of the affected
1669 property changes. In the event ownership changes, the written consent of the new owner must
1670 be obtained if the marine vessel is to continue to extend beyond the ends of the water frontage
1671 of the parcel.
1672
- 1673 9. Marine improvements that do not project more than six feet into a waterway as measured from
1674 the water frontage line may extend the full length of the water frontage of the parcel. However,
1675 where the end of a parcel water frontage line abuts the water frontage line of another parcel, the
1676 angle at which such two water frontage line ends meet shall be bisected and apportioned equally

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1677 between the two waterfront parcels. In that event, no marine improvement shall extend beyond
1678 the bisector of the angle.
1679

1680 10. No marine improvement that projects more than six feet from the water frontage line of the
1681 property shall be permitted to be outside of the marine improvement area for a waterfront parcel.
1682 The boundaries and dimensions of the marine improvement area shall be determined as follows:
1683

1684 a. End parcels.
1685

1686 i. The access width of the waterway shall be calculated by subtracting from the calculated
1687 waterway width twice the maximum distance that a marine improvement along one side
1688 of the waterway could lawfully project as determined pursuant to Section 5.4.4.A.1.

1689 ii. The waterway access ratio shall be calculated by dividing the waterway access width by
1690 the calculated width of the waterway.

1691 iii. The waterway center point (WCP) is a point on the centerline of the canal 30 feet from
1692 the water's end. All marine improvement area lines and intersections are calculated and
1693 plotted from the WCP. See Diagram 5.4.3.B.

1694 iv. Offset points for the parcel are determined as follows: If the parcel has 80 feet or more
1695 of water frontage line, then the offset points shall be located 12 feet from each end of
1696 the water frontage line of the parcel. If the parcel has more than 40 feet, but less than 80
1697 feet of water frontage line, then the offset points shall be located in from the ends of the
1698 water frontage line the distance (in feet) resulting from the following formula: (Feet of
1699 Water Frontage Line - 40) x 0.3. If the parcel has 40 feet or less of water frontage line,
1700 then the ends of the parcel's water frontage line shall be the offset points. See Diagram
1701 5.4.3.C.

1702 v. From the WCP, plot a line having the same relationship to the WCP as the water frontage
1703 line has to the center of the canal end, but with all distances reduced in size by the
1704 waterway access ratio. This line is the offset line for the parcel. See Diagram 5.4.3.D.

1705 vi. The marine improvement area is that area enclosed by the water frontage line, the offset
1706 line, and lines connecting the ends of the offset line to corresponding offset points. See
1707 Diagram 5.4.3.E.
1708

1709 b. Adjacent parcels. The marine improvement area for an adjacent parcel shall be calculated in
1710 the same manner as that for an end parcel except as follows:
1711

1712 i. Adjacent parcel that abuts an end parcel with 40 feet or less of water frontage line. On
1713 the side of the adjacent parcel that abuts an end parcel with 40 feet or less of water
1714 frontage line, the side boundary of the marine improvement area shall constitute the side
1715 boundary of such adjacent parcel's marine improvement area. See Diagram 5.4.3.I. & J.

1716 ii. Adjacent parcel that abuts an end parcel with more than 40 feet of water frontage line.
1717 On the side of the adjacent parcel that abuts an end parcel with more than 40 feet of
1718 water frontage line, the side boundary of the adjacent parcel's marine improvement area
1719 shall be determined by drawing a line from the end of the subject adjacent parcel's water
1720 frontage line (on the same side as the subject end parcel) to the nearest terminus point
1721 of the subject end parcel's offset line and passing through the adjacent parcel's offset line.
1722 The side boundary shall be that portion of the aforesaid line between the end of the

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1723 adjacent parcel water frontage line and the parcel's offset line. However, in no event shall
1724 the side boundary extend beyond the bisector of the angle formed where the adjacent
1725 parcel's water frontage line abuts the end parcel's water frontage line. The bisector shall
1726 be extended into the waterway the maximum distance a marine improvement could
1727 lawfully project within the marine improvement area. See Diagram 5.4.3.G.
1728

1729 c. Parcels on lakes and basins (excluding outside corner parcels). A waterfront parcel shall be
1730 deemed to be on a lake or a basin if the parcel abuts a body of water identified as a lake or a
1731 basin on the officially adopted Future Land Use Map of the City of Cape Coral. Except for
1732 outside corner parcels, all waterfront parcels on lakes or basins shall be categorized as corner
1733 parcels, adjacent parcels, or end parcels. A corner lake or basin parcel shall be a parcel that
1734 either touches or is on both sides of an interior corner of a lake or basin. In other words, a
1735 corner lake or basin parcel may be one with a water frontage line that is V-shaped because it
1736 physically runs along the edge of the lake or basin, turns at the corner, and continues along
1737 the edge of the lake or basin, or it may be a parcel the water frontage line of which ends at a
1738 corner of the lake or basin where another side of the lake or basin begins, or it may be a parcel
1739 that is angled in such a way that each end of its water frontage line touches a different side
1740 of the lake or basin. Also, an adjacent lake or basin parcel shall be a parcel that is on a lake or
1741 basin and that abuts at least one corner parcel. All other parcels on lakes or basins and that
1742 are neither corner parcels or adjacent parcels shall be treated as end parcels.
1743

1744 d. The marine improvement area for parcels on lakes or basins shall be calculated as follows:
1745
1746 i. For an end parcel, the side of the lake or basin upon which the parcel is physically located
1747 shall be deemed to be the end of the lake or basin and the sides of the lake or basin shall
1748 be deemed to be the sides of the lake or basin running roughly perpendicular to the end
1749 of the lake or basin and to the left and to the right of the parcel (when facing the lake or
1750 basin). For purposes of this Section, the waterway access ratio for all end lake and basin
1751 parcels shall be one. In addition, the WCP for end lake or basin parcels shall be 40 feet
1752 into the lake or basin as measured perpendicularly to the lake or basin end from the
1753 center of the lake or basin end. All marine improvement area lines and intersections are
1754 calculated and plotted from the WCP. The remainder of the marine improvement area
1755 boundary calculations for end lake or basin parcels shall be the same as those performed
1756 with respect to canal end parcels.
1757 ii. For corner lake or basin parcels, the configuration of the marine improvement area shall
1758 be determined by the physical configuration of the particular corner parcel. With respect
1759 to a corner parcel the water frontage line of which lies entirely on one side or end of a
1760 lake or basin, but terminates at the corner of the lake or basin where the other side of
1761 the lake or basin begins, the marine improvement area shall be calculated in the same
1762 manner as for end lake or basin parcels except that the side boundary of such marine
1763 improvement area (on the side where the corner of the lake or basin is located) shall be
1764 formed by a line bisecting the angle of such corner and extending to the offset line of the
1765 marine improvement area. See Diagram 5.4.3.K.
1766 iii. With respect to a corner parcel that is angled so that each end of its water frontage line
1767 is on a different side of the lake or basin or for a corner parcel with a V-shaped water
1768 frontage line, the marine improvement area configuration shall be determined as follows:

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- 1769 First, calculate the waterway access ratio for each side of the lake or basin in the same
1770 manner as the waterway access ratio for a canal is determined. Then measure the
1771 distance from the center of each side of the lake or basin touched by the corner property
1772 to the end of the water frontage line, or to the offset point, if any, on such side of the lake
1773 or basin. Multiply each of the aforesaid distances by the waterway access ratio for the
1774 relative side of the lake or basin to obtain the length of the waterway line for each side of
1775 the lake or basin. Plot the waterway line from the center of the side of the lake or basin
1776 for which it was calculated to a point that is 30 feet waterward from the water frontage
1777 line. The offset line for a corner parcel marine improvement area is formed by connecting
1778 the two foregoing points. The marine improvement area for the corner parcel is that area
1779 enclosed by the parcel water frontage line, the offset line, and lines connecting the ends
1780 of the offset line to the corresponding offset points for the parcel, if any, or to the ends
1781 of the water frontage line. See Diagrams 5.4.3.L & M.
- 1782 iv. For adjacent lake or basin parcels, the marine improvement area shall be calculated in the
1783 same manner as that for end lake or basin parcels except as follows: With respect to an
1784 adjacent lake or basin parcel that abuts a corner parcel with 40 feet or less of water
1785 frontage line, the side boundary of the corner parcel marine improvement area (on the
1786 side where it abuts the adjacent parcel) shall form the side boundary of the adjacent
1787 parcel marine improvement area. With respect to an adjacent lake or basin parcel that
1788 abuts a corner parcel with more than 40 feet of water frontage line, the side boundary of
1789 the adjacent parcel (on the same side as the subject corner parcel) shall be determined
1790 by drawing a line from the end of the adjacent parcel water frontage line to the nearest
1791 terminus point of the subject corner parcel offset line and passing through the adjacent
1792 parcel offset line. The side boundary of the adjacent parcel shall be that portion of the
1793 aforesaid line between the end of the adjacent parcel waterfrontage line and such
1794 parcel's offset line. See Diagram 5.4.3.M
- 1795 v. Owners of waterfront parcels on a lake or basin aggrieved by the interpretation or
1796 application of this Section to such parcel due to the physical configuration of the
1797 particular lake or basin, then the Director may interpret and apply the provisions of this
1798 Section so as to alleviate the hardship resulting from the configuration of the lake or basin
1799 and so as to enable the waterfront parcel a reasonable marine improvement area.
- 1800
- 1801 6. In the event a significant portion of a waterway is not developable on one side due to ecological
1802 or other constraints, a marine improvement on the opposite side of the unnavigable portion
1803 shall be permitted to project into the waterway up to 50% of the calculated waterway width or
1804 40 feet, whichever is less, as measured from the waterfrontage line. See Diagram 5.4.3.N
- 1805
- 1806 7. No marine vessel (or any part thereof) when secured in any way to a marine improvement shall
1807 extend beyond the ends of the water frontage of the parcel from which the marine
1808 improvement projects.
- 1809
- 1810 8. All properties adjacent to bridges shall be reviewed individually by the city to determine what,
1811 if any, marine improvement may project from that property. Factors to be considered in making
1812 this determination include, but are not limited to, public safety and the impact of a planned
1813 marine improvement on navigability.
- 1814

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1815 B. Maximum dock surface area.

1816

1817 1. For parcels with more than 40 feet of waterfrontage, the maximum deck surface area
1818 coverage shall be calculated as follows: the linear feet of water frontage of the parcel minus
1819 20 feet times one-half times the linear feet of the maximum projection into the waterway
1820 (25% of the calculated width of the waterway or 40 feet, whichever is less).

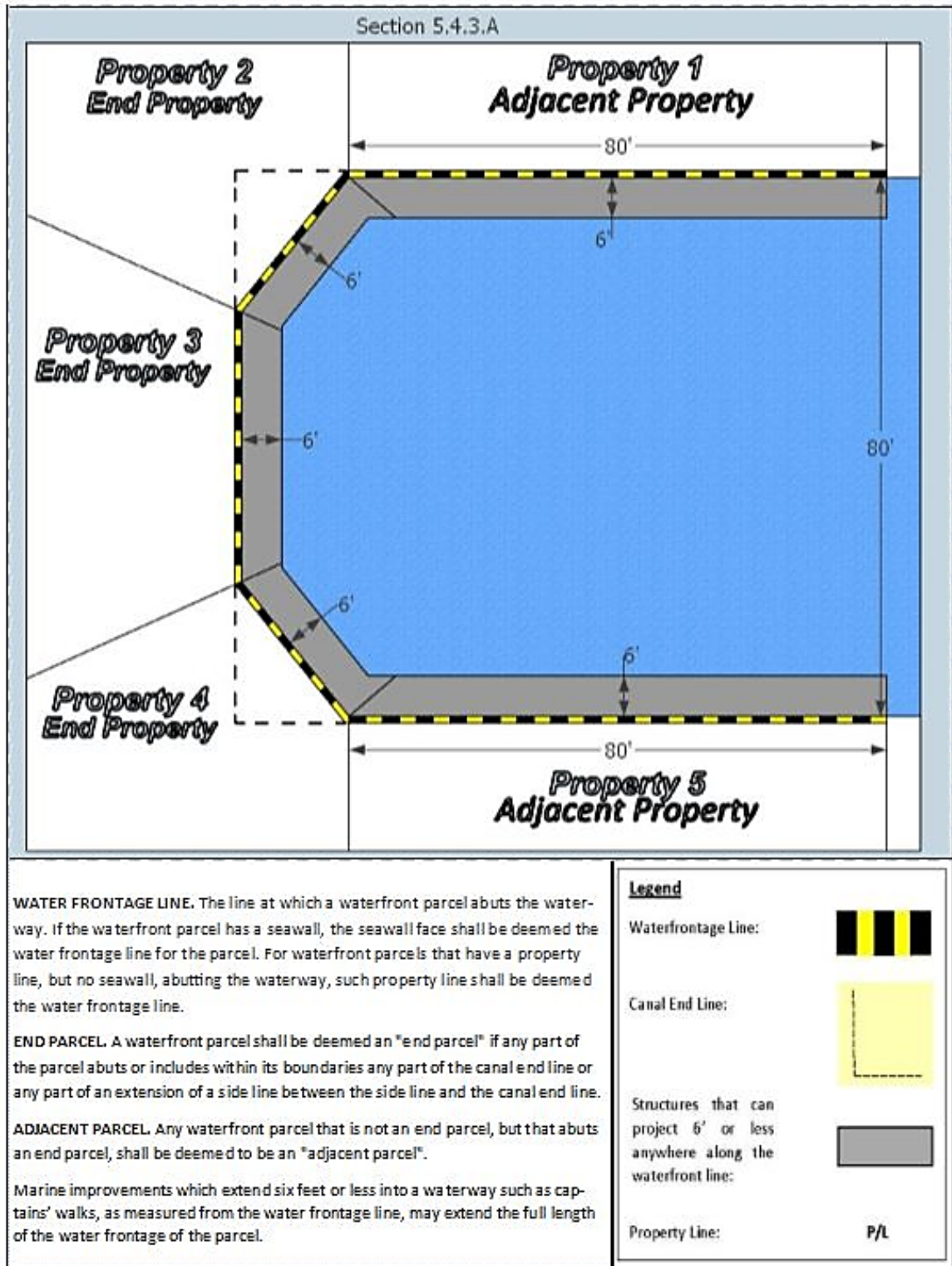
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1822 2. For parcels with 40 feet or less of waterfrontage, the maximum deck surface area shall be
1823 calculated as follows: the linear feet of waterfrontage of the parcel times one-quarter times
1824 the linear feet of the maximum projection into the waterway (25% of the calculated width of
1825 the waterway or 40 feet, whichever is less).

1826

1827 **Section 5.4.3. Graphics**

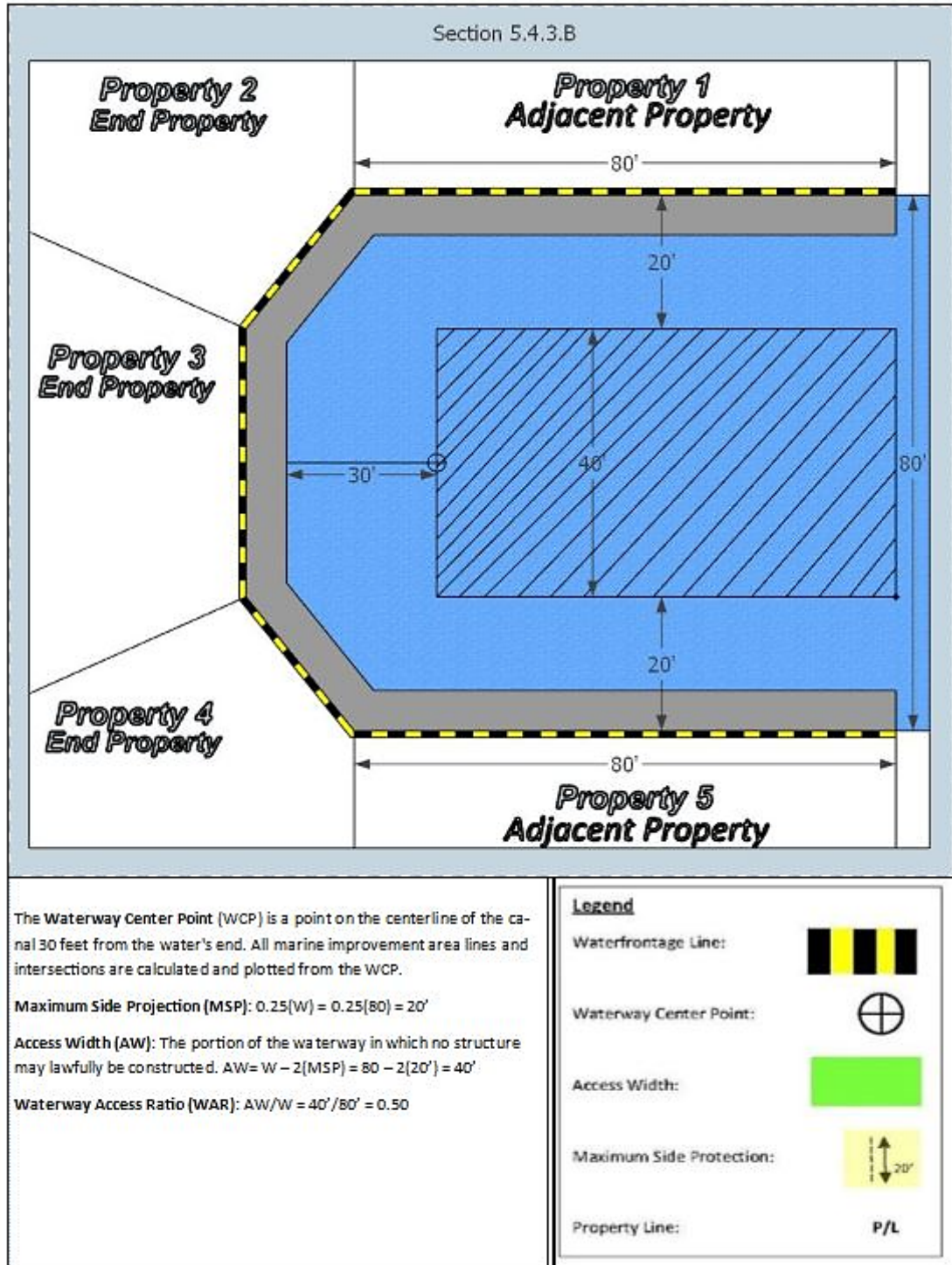
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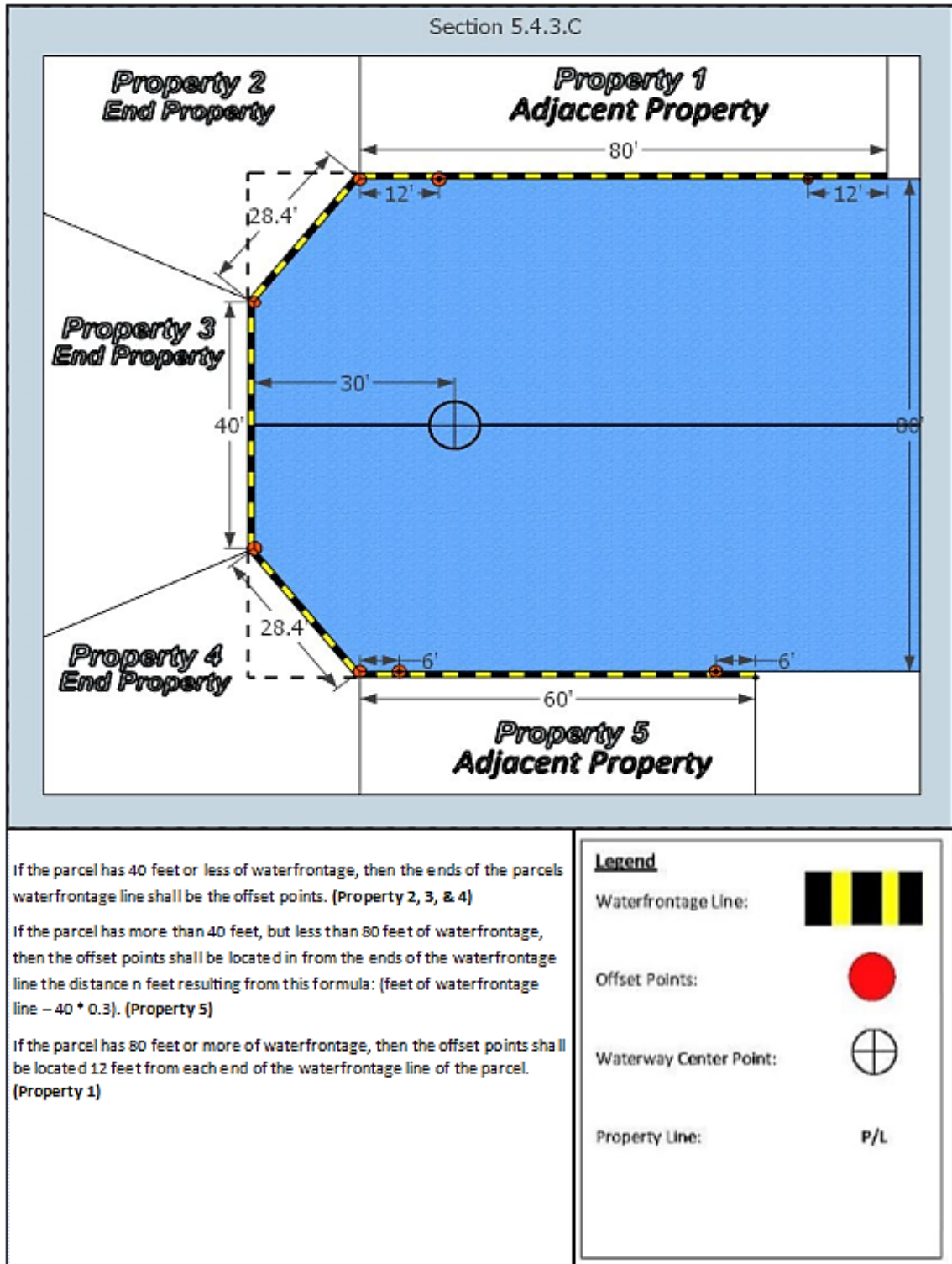
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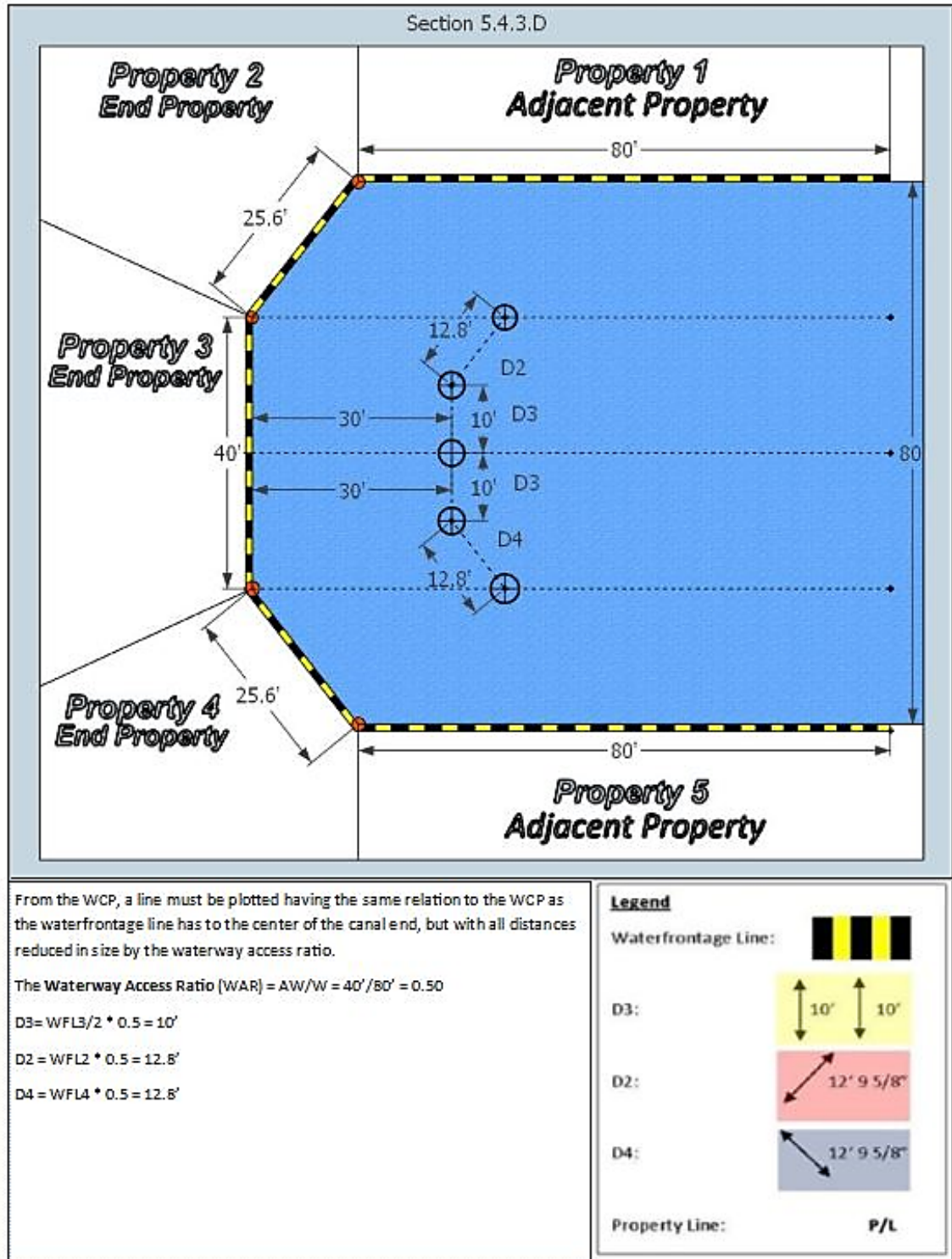
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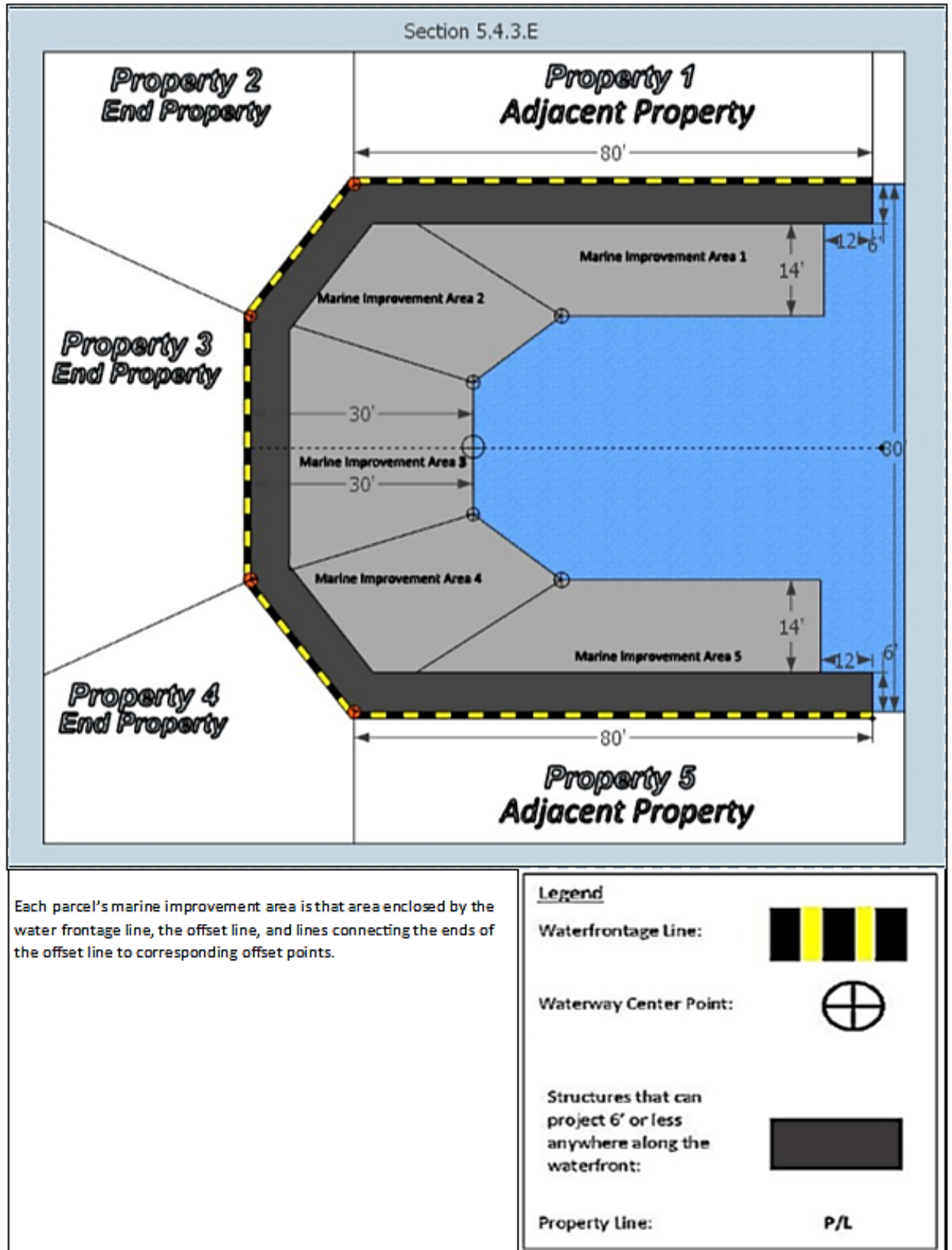
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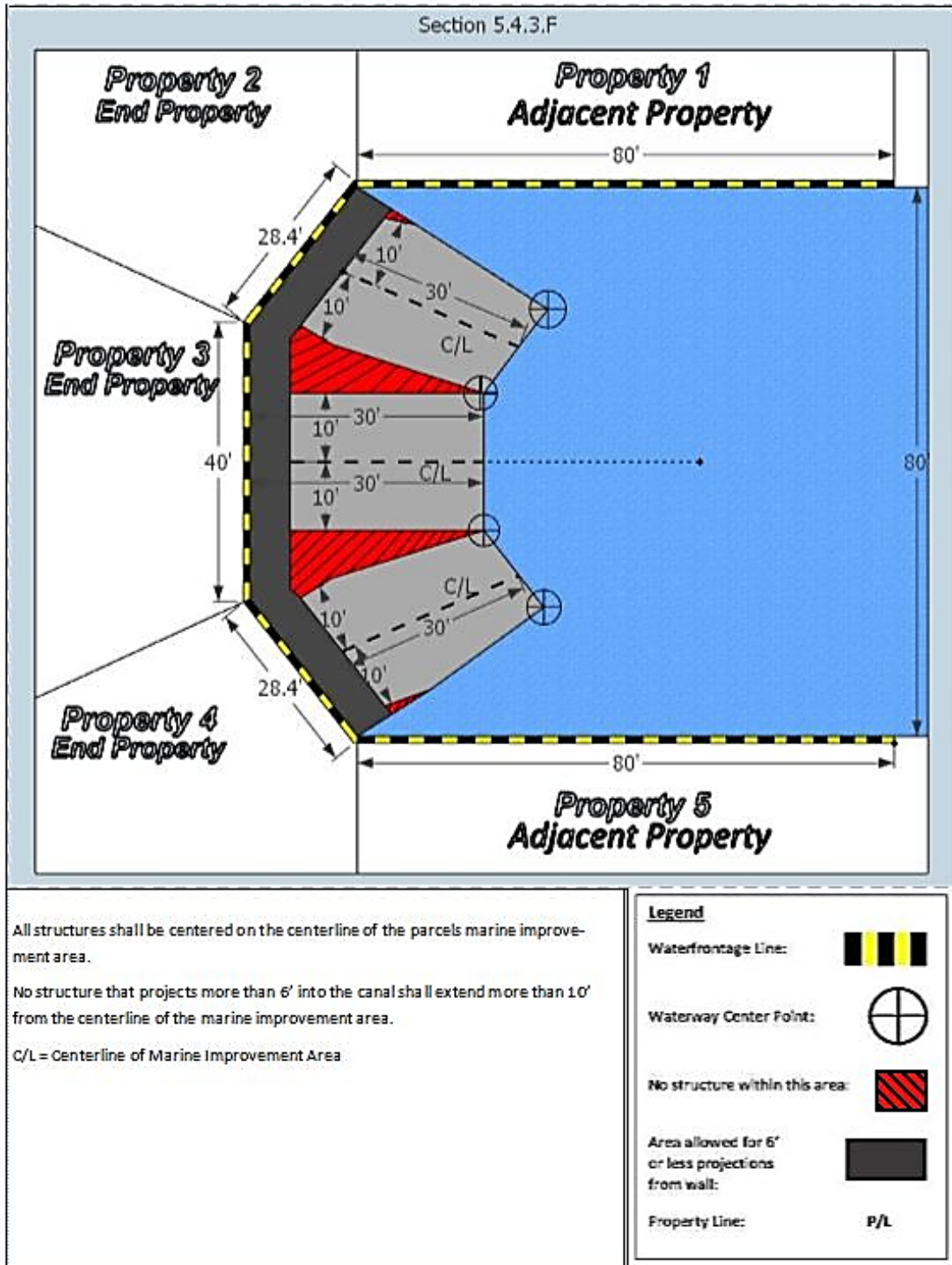


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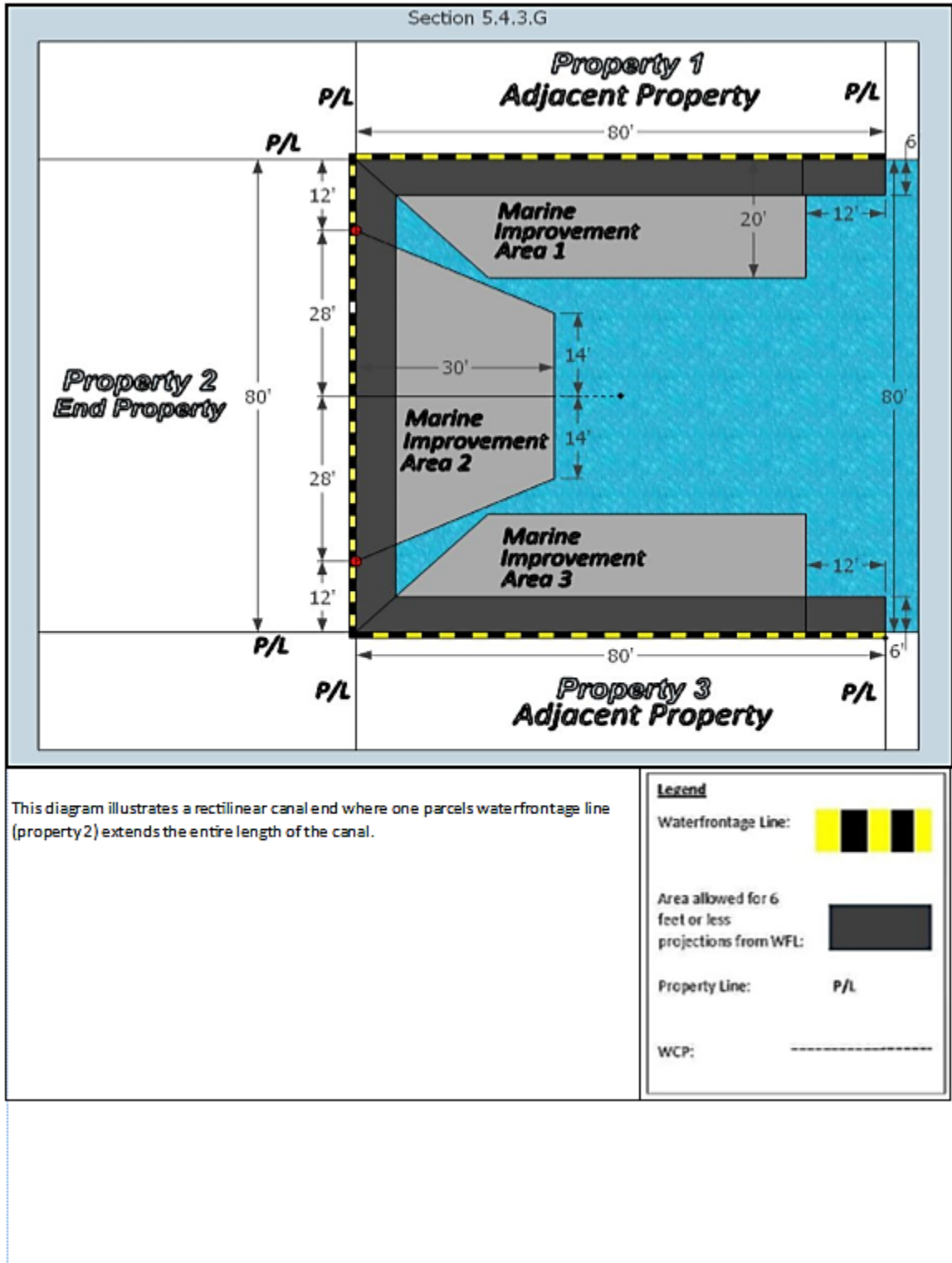
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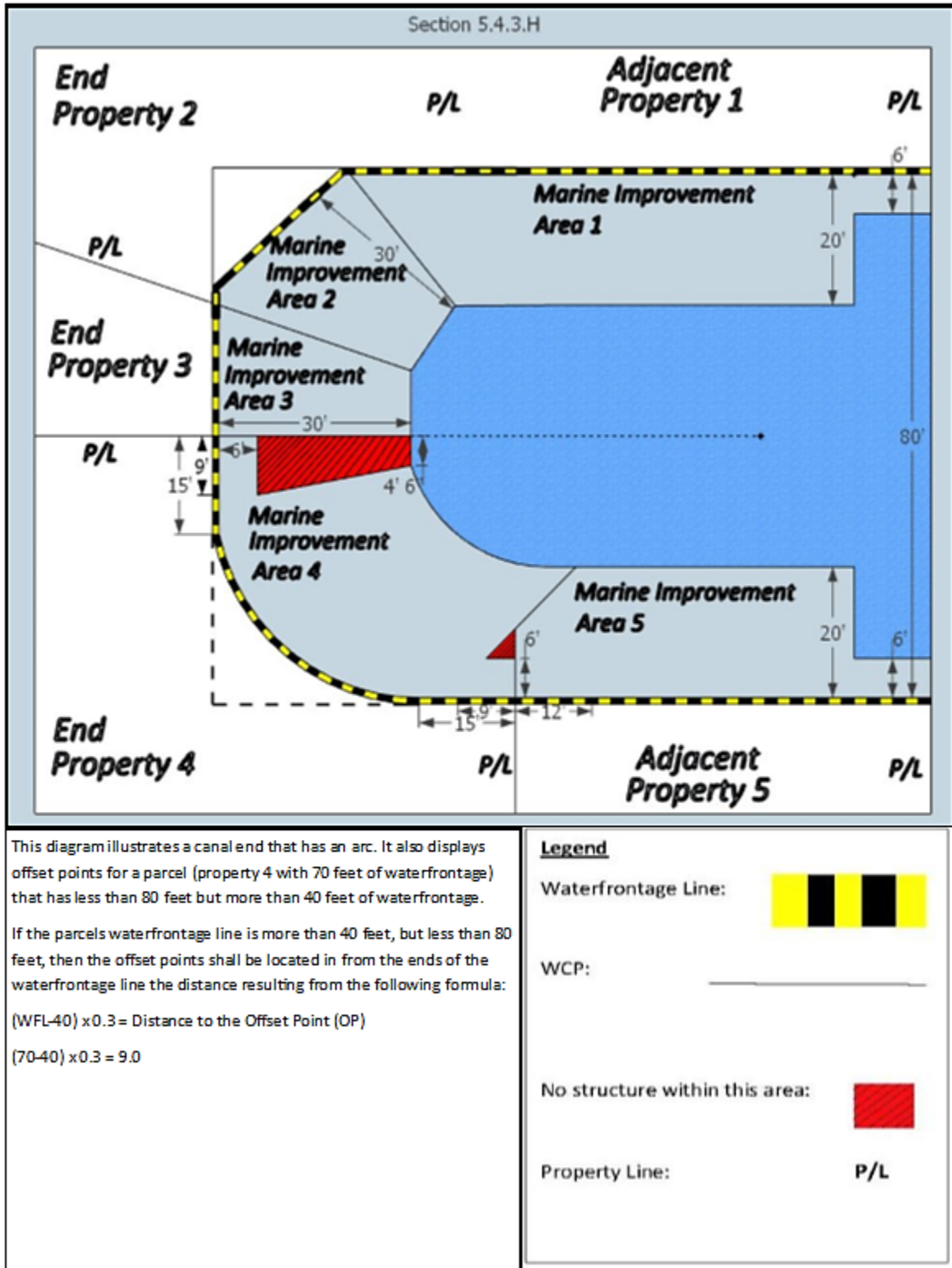
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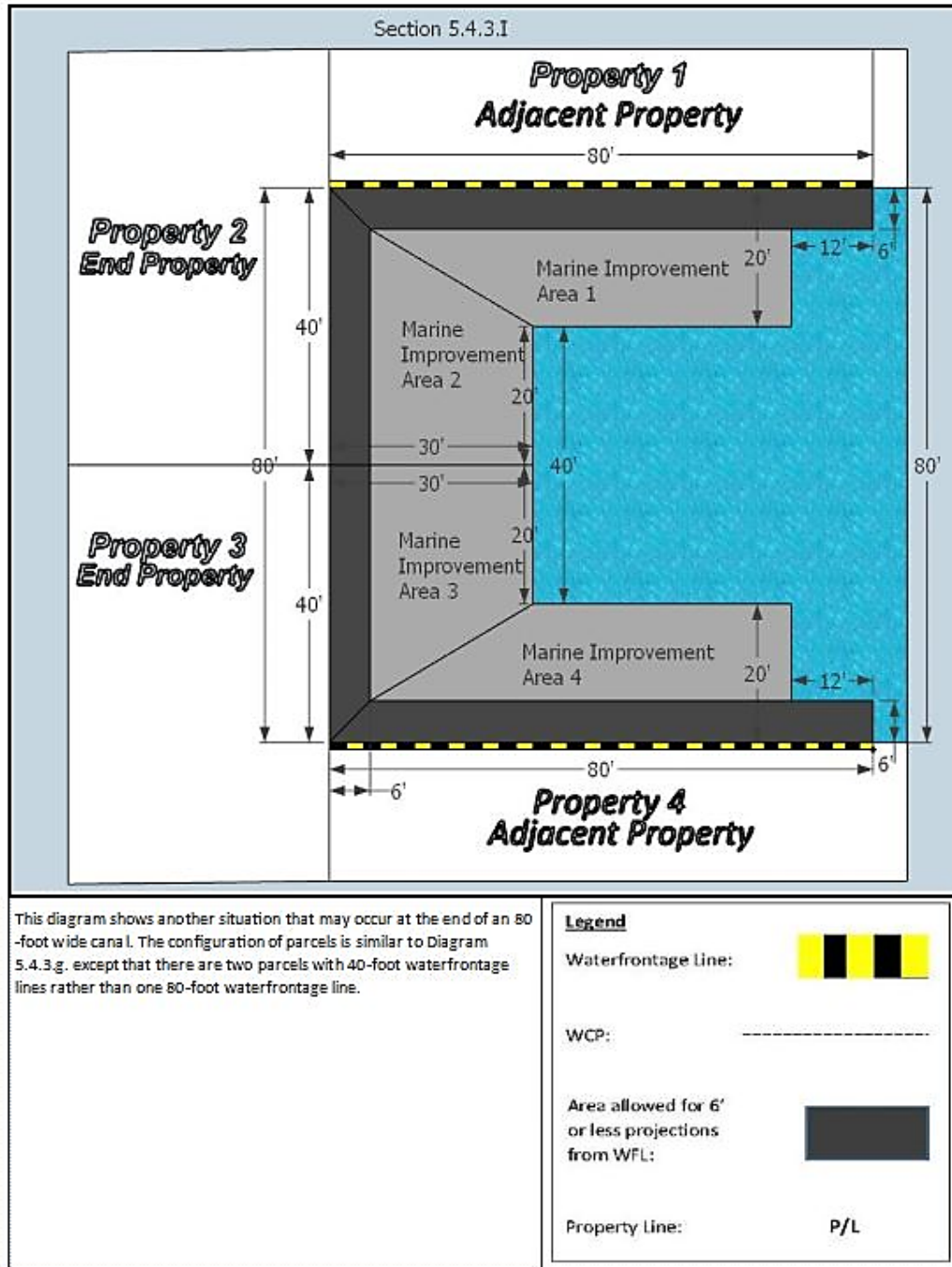
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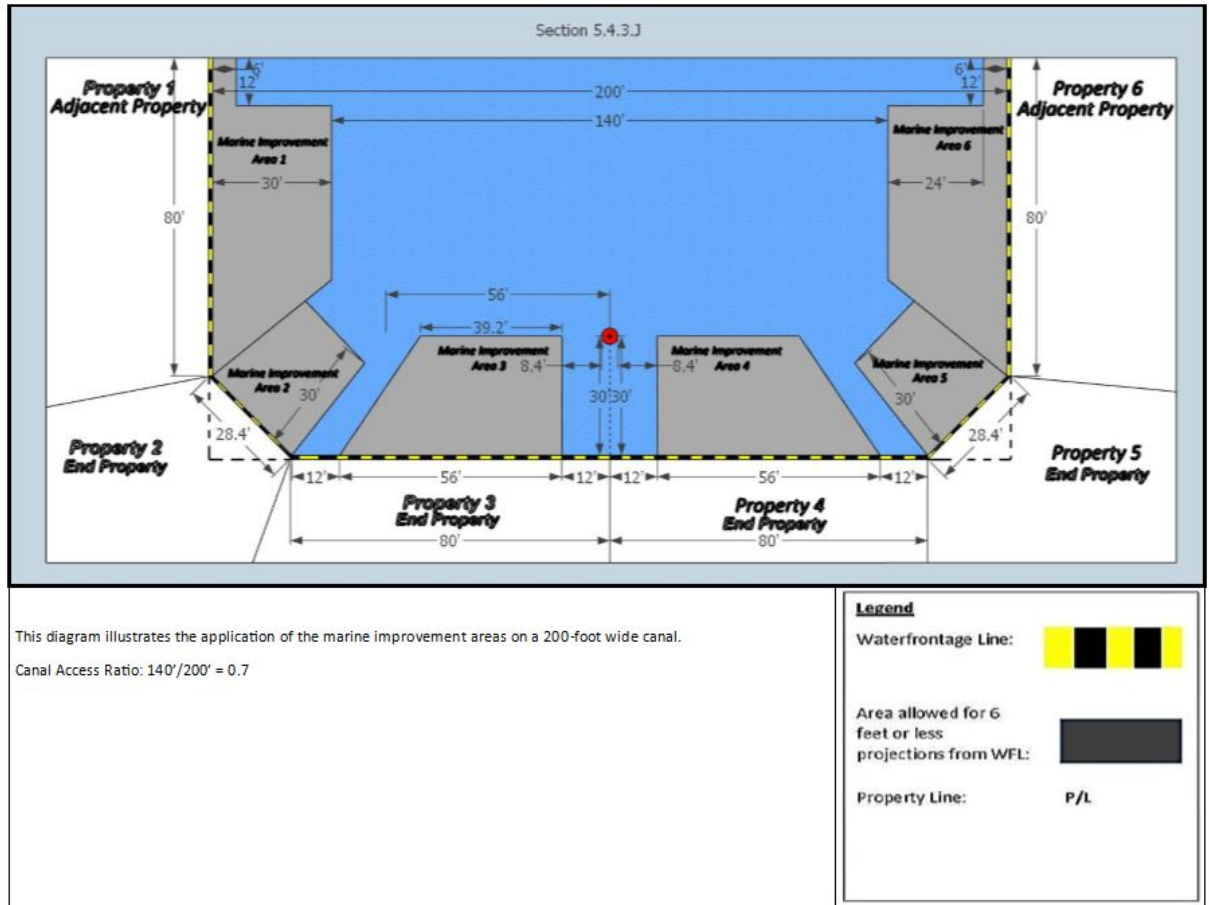
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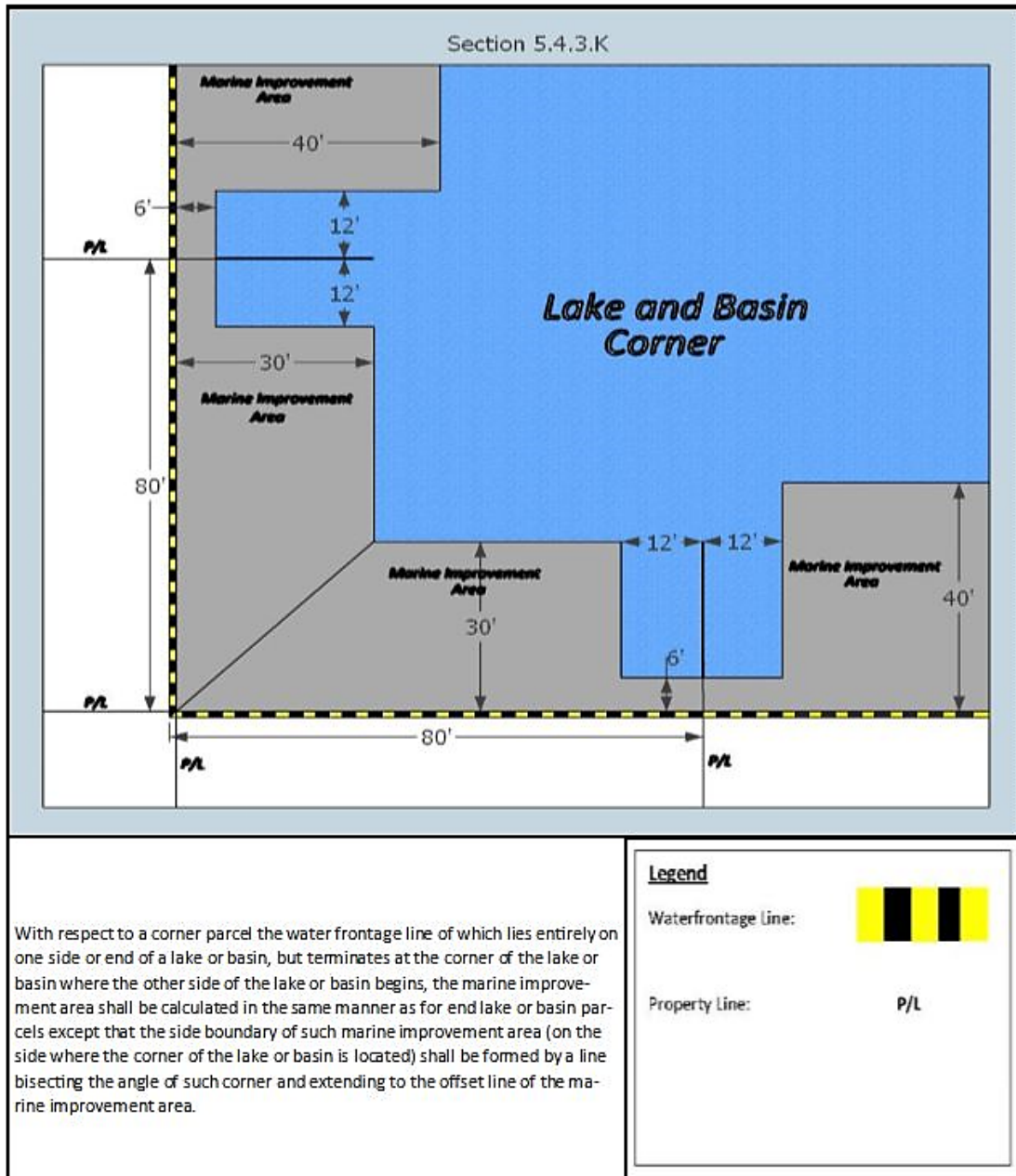
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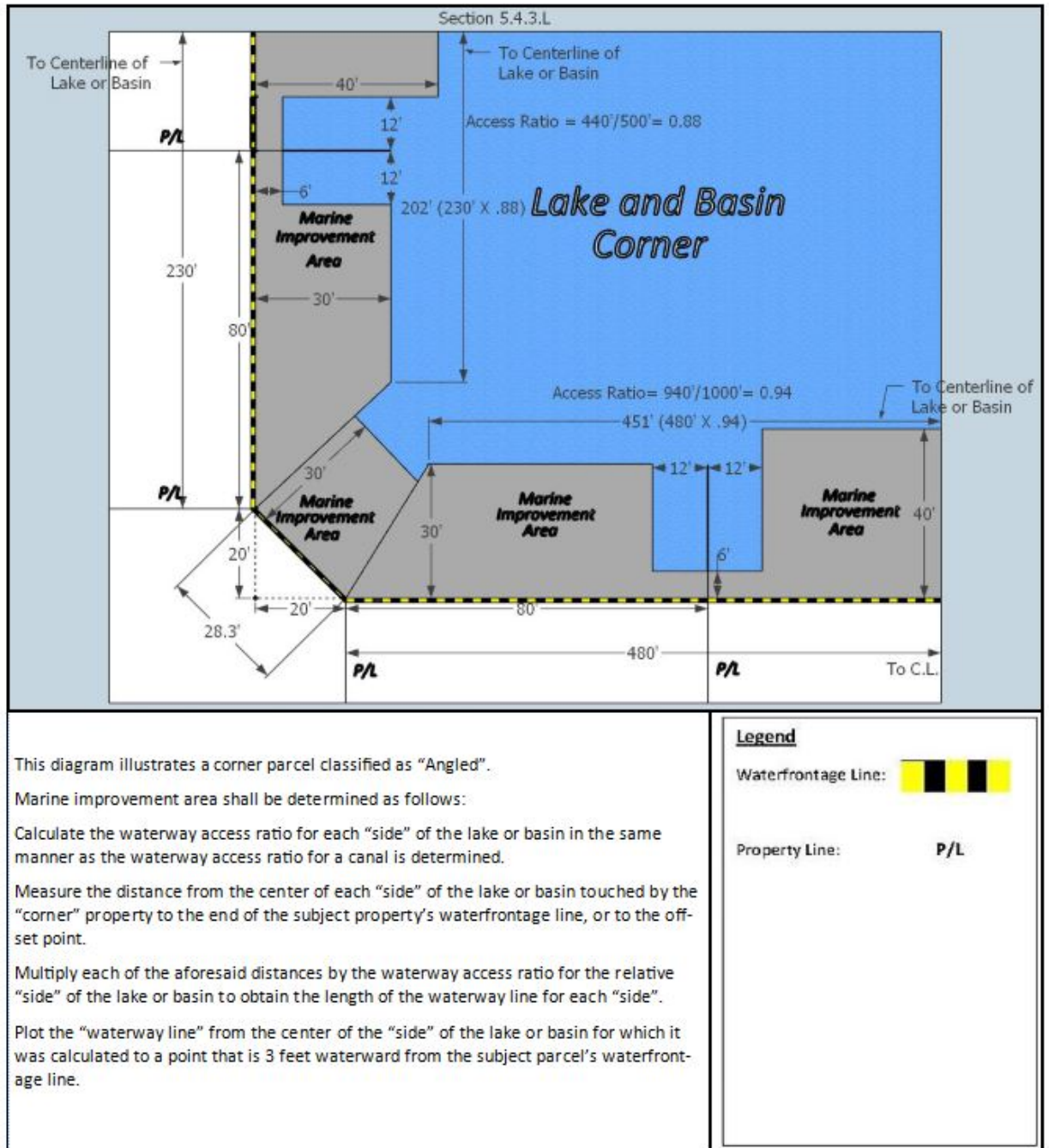
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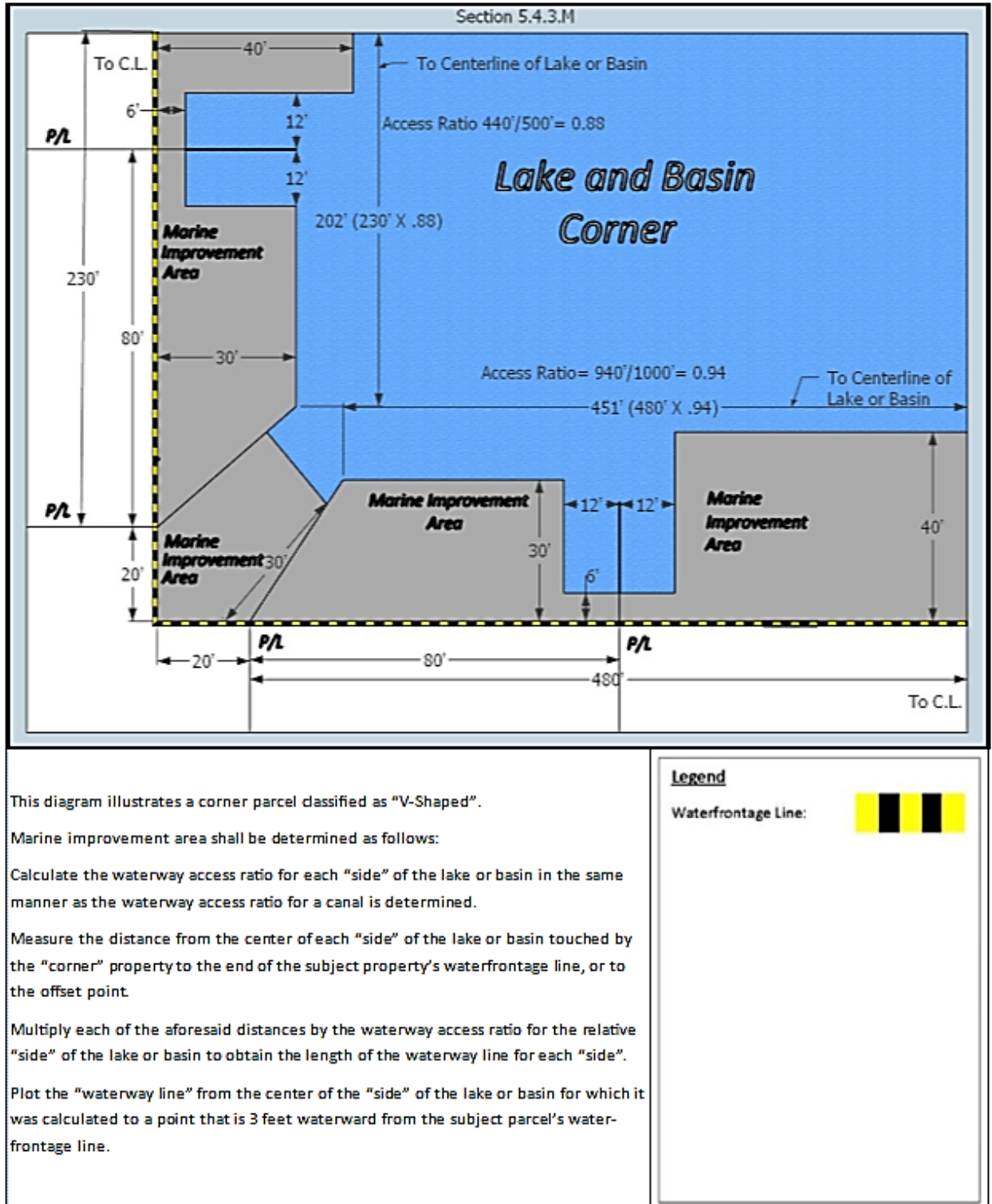
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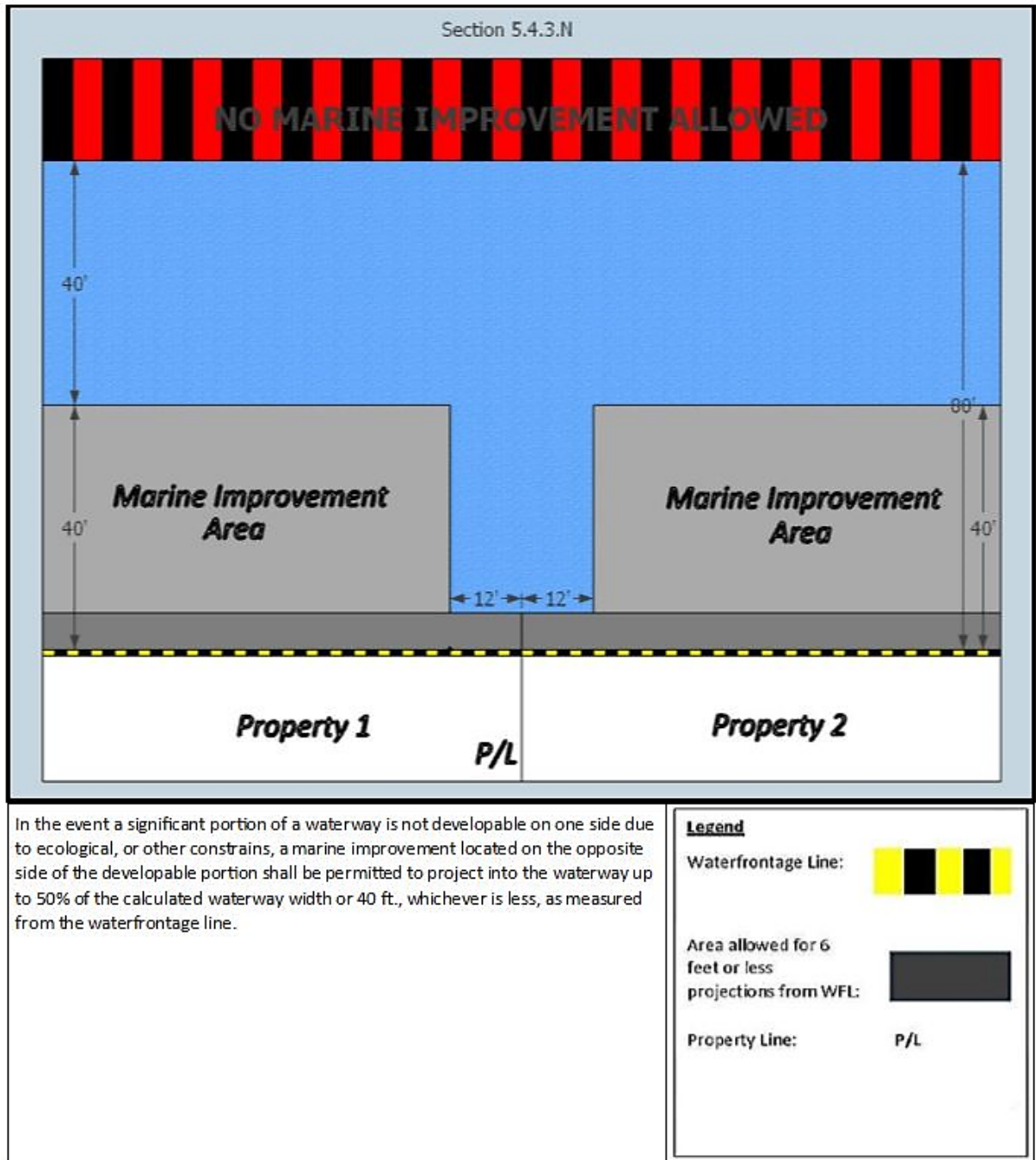
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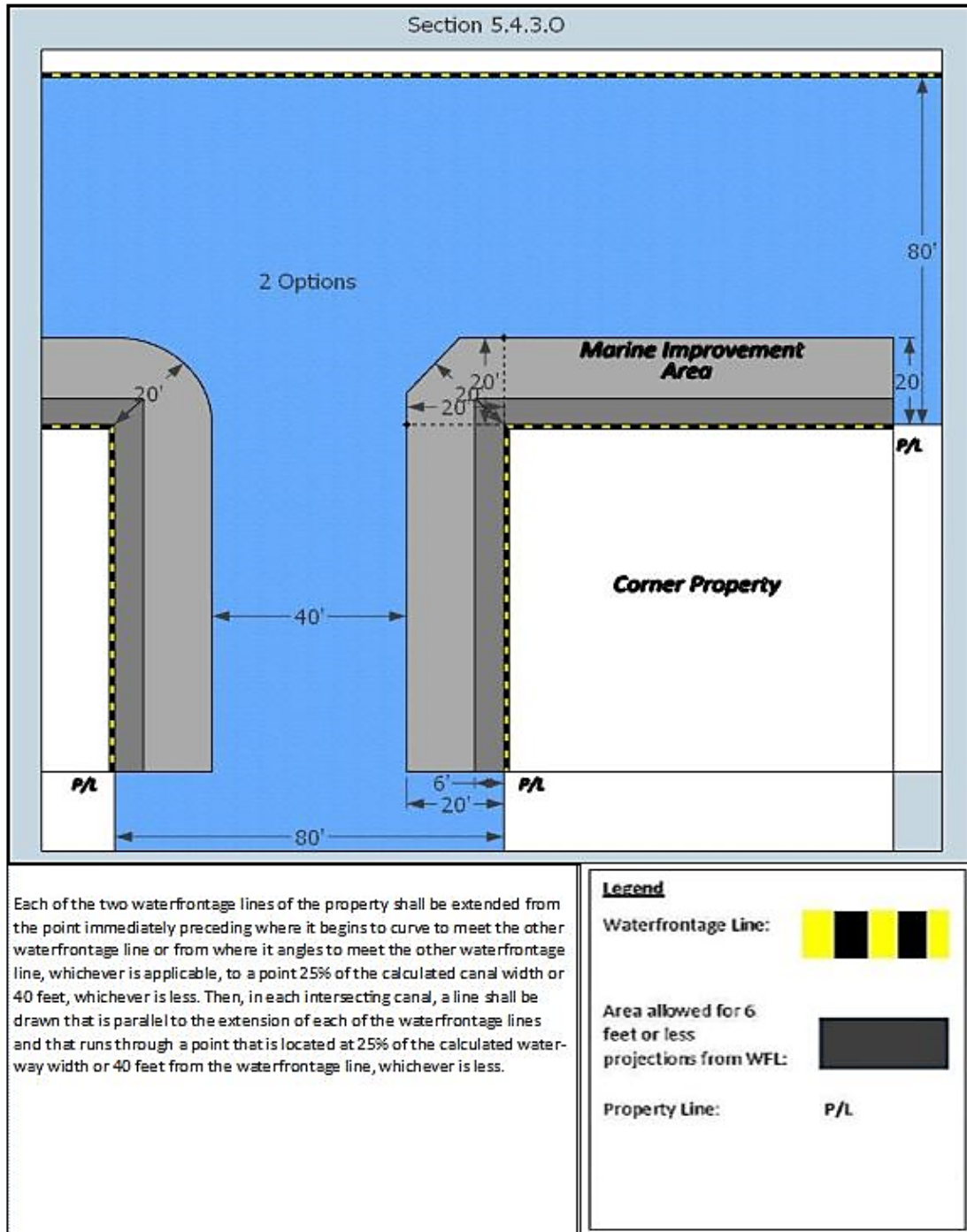
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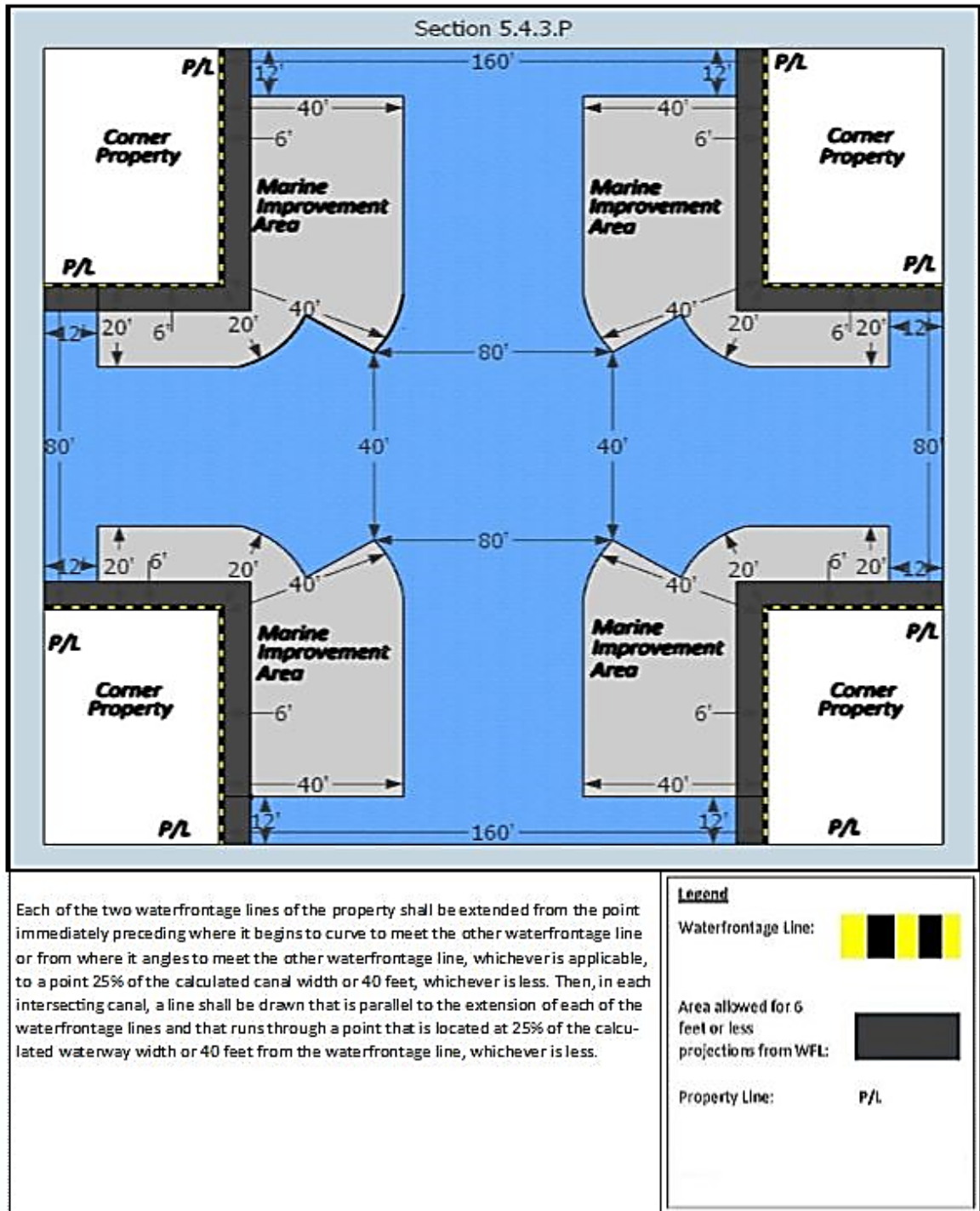
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1848 **Section 5.4.4. Joint Marine Improvements.**

1849

1850 Owners of adjoining waterfront parcels may adjust their abutting marine improvement area boundaries
1851 and offset requirements by entering into a written joint use agreement, provided the marine
1852 improvements are connected. A captain’s walk does not constitute a connection for requiring a joint
1853 marine improvement. All limitations regarding the maximum area of marine improvements shall apply to
1854 each property and the maximum marine improvement area allowed for each parcel shall not be combined
1855 or modified in any way so as to increase the maximum marine improvement area allowed for either parcel.
1856 Marine vessels or boat canopies when secured in any way to a joint marine improvement may extend
1857 beyond the end of one of the waterfront parcels involved at the point where such parcel abuts the other
1858 parcel sharing the marine improvement. However, no marine vessel (or any part thereof) shall extend
1859 beyond the outer ends of the water frontage of the two waterfront parcels except as provided in §
1860 5.4.3.A.8 The joint use agreement shall, at a minimum, comply with the following requirements.

1861

1862 A. The agreement shall contain the name(s) and current home address(es) of both property owners.

1863

1864 B. The agreement shall identify the waterway upon which the subject parcels are located and shall
1865 identify the waterfront parcels involved by legal description and by STRAP number. The agreement
1866 shall also include a signed and sealed survey of the subject adjoining parcels.

1867

1868 C. The agreement shall include a drawing of the proposed marine improvement(s) to be constructed,
1869 showing the design and dimensions of the marine improvement(s), and where the marine
1870 improvements will project from the parcels.

1871

1872 D. The agreement shall identify those areas that would be subject to access (ingress and egress)
1873 easements in conjunction with the joint marine improvement. Such easement(s) shall identify by legal
1874 description the property to which the easement attaches and shall be irrevocable except with the
1875 written consent of the city. The rights of each party with respect to such easement(s) shall run with
1876 the title to the respective parcels. A drawing identifying the easements shall also be included with the
1877 agreement.

1878

1879 E. The agreement shall identify the responsibilities of each of the parties for the construction and
1880 maintenance of the facilities. However, identification or division of responsibilities between parties in
1881 the agreement shall not affect the ability of the city to enforce any and all provisions of its Code of
1882 Ordinances or Land Development Codes against the property owner(s) of the joint marine
1883 improvement, jointly and severally.

1884

1885 F. The agreement shall state that the parties understand and agree to abide by all applicable federal,
1886 state, and local regulations pertaining to the construction, maintenance, and use of the facilities.

1887

1888 G. The agreement shall run with the land and be binding upon the parties, their successors, heirs, and
1889 assignees and it shall provide that it may not be rescinded or amended without the written consent
1890 of the city.

1891

1892 H. The parties to the agreement shall record the agreement, at their own expense, in the public records
1893 of Lee County. The agreement shall satisfy all requirements for recording, including those contained

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1894 in the Florida Statutes. No permit for the construction of a joint marine improvement or for the
1895 erection or installation of a boat canopy on a joint marine improvement shall be issued by the city
1896 until the parties have first provided to the city a copy of the fully executed agreement and evidence
1897 of recording that is satisfactory to the city, in its sole discretion.
1898

1899 I. Prior to execution and recording of the agreement, the parties shall submit a draft of the proposed
1900 agreement to the Community Development Director for review and comment.
1901

1902 **Section. 5.4.5. Quays and mooring piles.**
1903

1904 A. A seawall may be altered to accommodate the mooring of a vessel if it is determined that the seawall
1905 is structurally sufficient for that purpose.
1906

1907 B. Mooring piles may be installed directly adjacent to the seawall to allow for the mooring of watercrafts
1908 without a dock.
1909

1910 C. Pilings shall not be higher than eight feet above mean high water.
1911

1912 D. Any watercraft moored at a quay or a pile may not be any closer than 10 feet to the adjacent property
1913 line.
1914

1915 **Section. 5.4.6. Davits, watercraft lifts, and floating docks.**
1916

1917 A. Lifts: An electrical permit is required to install a lift within an existing u-shaped dock.
1918

1919 B. Davits:
1920

1921 1. The minimum side setback for davit installation shall be five feet from the side lot line to the
1922 center of the davit base.
1923

1924 2. Davits, including swinging lifts when extended over the water, may not extend further than 25%
1925 into the waterway or 30 feet whichever is less.
1926

1927 3. Overhead hoists, davits, or machinery shall not exceed eight feet above mean high water when
1928 not in use.
1929

1930 C. Floating docks and lifts:
1931

1932 1. For dimensional requirements refer to Section 5.4.3. above.
1933

1934 2. A floating dock or lift must be anchored in place so as not to impede the use of neighboring
1935 waterfront property.
1936

1937 **Section. 5.4.7. Boathouses and canopies.**
1938

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- 1939 A. No overhead structure shall be constructed on any dock other than an approved boat canopy or sun
1940 shelter. Sun shelters shall be erected or installed on docks only in accordance with Section 5.2.10. of
1941 this article. Boat canopies are permitted to be erected or installed on marine improvements for the
1942 purpose of protecting a vessel from the elements only in accordance with the following:
1943
- 1944 B. The support(s) and frame(s) of a boat canopy shall be constructed of a corrosion-resistant material.
1945 Boat canopy supports shall be arranged in an open design so as to allow visibility through the sides
1946 with openings no smaller than four feet in any dimension. No boat canopy support or frame shall be
1947 of a solid or opaque design so as to create a wall. No boat canopy shall have wooden framing or
1948 supports. No shutter roll-up design shall be permitted.
1949
- 1950 C. The canopy shall be fabric or a material which can be rolled and folded without damage. The canopy
1951 shall be attached to the boat canopy supports or frames in such a manner that it detaches in a wind
1952 load of 70 mph or greater.
1953
- 1954 D. The boat canopy shall not extend horizontally more than 30 inches over or beyond any dock to which
1955 the canopy is attached, except to the rear of a boat slip where it may extend up to 48 inches past the
1956 end of the structure. Canopies attached to marine improvements that are built to the maximum
1957 projection, may extend up to 30 inches beyond the structure.
1958
- 1959 E. No boat canopy shall exceed 40 feet in length or 18 feet in width.
1960
- 1961 F. Boat canopies, their supports, and frames shall be maintained in good repair at all times. No canopy,
1962 canopy support, or frame shall be allowed to fall into disrepair or to become dilapidated, structurally
1963 dangerous, or unsafe. In the event a boat canopy, canopy support, or frame falls into disrepair, it shall
1964 be the responsibility of the owner of the waterfront parcel to remove the offending structure.
1965
- 1966 G. Only one canopy may be permitted per parcel.
1967
- 1968 H. No boat canopy, when measured at its highest point, shall extend more than 14 feet above the seawall
1969 cap, or if no seawall exists, above the decking of the marine improvement.
1970

Section. 5.4.8. Bulkheads, seawalls, and retaining walls.

- 1971 A. Mandatory seawalls required; saline or brackish water. All parcels having frontage or direct and
1972 immediate access to frontage on any saline, brackish, or tidally influenced canal or other body of
1973 water within or bordering the boundaries of the city is required to have a seawall bulkheading the
1974 entire frontage exposed to contact with the water.
1975
- 1976 B. Seawalls; fresh or non-saline water. All parcels having frontage or direct and immediate access to
1977 frontage on any freshwater or non-tidal canal or other body of water within or bordering the
1978 boundaries of the city are required to have a seawall bulkheading the entire frontage exposed to
1979 contact with the water or alternatives to vertical bulkheads as specified in the City of Cape Coral
1980 Engineering Design Standards. Seawalls or their alternative shall be structurally maintained at owner's
1981 expense so as not to cause a nuisance or hazard to safety. The provisions of this Section shall not apply
1982 to any parcels adjacent to or contiguous with any drainage ditch, canal, pond, or lake within any public
1983 or private golf course or public park.
1984

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C. Bulkheads under SFWMD jurisdiction. The construction of bulkheads, in association with water management system lake construction under jurisdiction of SFWMD, shall be in compliance with SFWMD criteria.

Single-family residential and duplex parcels. Parcels bounded by bulkheads shall construct an infiltration trench adjacent to and along the entire length of the bulkhead.

CHAPTER 5. LANDSCAPING

Section 5.5.1. Purpose and intent.

This section is established to provide general landscape regulations, to improve the appearance of certain setback and yard areas, including off-street vehicular parking, open lot sales and service areas, and to protect and preserve the appearance, character, and value of the surrounding neighborhoods. The principles of the Florida-Friendly Landscaping Program with regard to planning and design, soil improvement, efficient irrigation, limited turf areas, mulches, drought tolerant plants, and appropriate maintenance are the basis for the principles in this section and should be used as guidance in all new construction and landscape renovations so as to provide the most green with the least water and create a landscape that can survive largely undamaged in case of short term water restrictions.

Section 5.5.2. Florida-Friendly Landscaping Program principles.

The city strongly encourages adherence to the Florida-Friendly Landscaping Program that includes the following principles:

- A. Right plant, right place. Plants selected to suit a specific site will require minimal amounts of water, fertilizer and pesticides.
- B. Water efficiently. Irrigate only when lawn and landscape need water.
- C. Fertilize appropriately. Less is often better. Over-use of fertilizer can be hazardous to your yard and the environment.
- D. Mulch. Maintaining a layer of mulch will help retain soil moisture, prevent erosion and suppress weeds.
- E. Attract wildlife. Plants in private yards that provide food, water and shelter can conserve Florida's diverse wildlife.
- F. Manage yard pests responsibly. Unwise use of pesticides can harm people, pets, beneficial organisms, and the environment.
- G. Recycle yard waste. Grass clippings, leaves, and yard trimmings recycled onsite provide nutrients to the soil and reduce waste disposal.

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2031 H. Reduce stormwater runoff. Water running off from private yards can carry pollutants such as soil,
2032 debris, fertilizer, and pesticides that can adversely impact water quality.

2033
2034 I. Protect the waterfront. Waterfront property is very fragile and should be carefully protected to
2035 maintain freshwater and marine ecosystems.

2036
2037 **Section 5.5.3. Applicability.**

2038
2039 Except as provided under Section 5.5.4, Exemption, the landscape standards of this section shall apply to
2040 all new construction of single-family homes and duplexes, and to all other new construction requiring
2041 SDP review per under Article 3. Additionally, all landscape standards of this section shall apply to
2042 amendments to a site plan that would have the effect of:

2043
2044 A. Increasing the total square footage of any one building or the total square footage of all buildings on
2045 a site by more than 20%;

2046
2047 B. Increasing the number of buildings; or

2048
2049 C. Adding any new or expanding any existing off-street parking area.

2050
2051 D. The existing portion of an amended or expanded project which is demonstrated to be completely
2052 and fully in compliance with an approved landscape plan at the time of application is not required to
2053 be modified to comply with this section.

2054
2055 E. All areas of an existing project affected by an amendment or expansion or those areas that are not
2056 in full compliance with an approved landscape plan are required to comply with this section.

2057
2058 F. No certificate of occupancy or certificate of completion shall be issued until the Department of
2059 Community Development (DCD) has determined that the applicant has complied with all the
2060 provisions of this section and has approved the finished landscape product.

2061
2062 **Section 5.5.4. Exemption.**

2063
2064 These regulations do not apply to projects located where the City Council has established specific
2065 landscape standards for a unique area of the city; unless the specific landscape standards otherwise
2066 expressly state their applicability.

2067
2068 **Section 5.5.5. Conflicts.**

2069
2070 If any of the landscape standards of this section conflict with any other provision of the City of Cape Coral
2071 Code of Ordinances or the LDC the provision that establishes the more specific standard governs. If neither
2072 conflicting provision establishes a more specific standard, then the more stringent provision governs
2073 unless otherwise expressly provided.

2074
2075 **Section 5.5.6. Landscape plans.**

2076

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- 2077 A. Landscape plan required. A landscape plan that meets the requirements below shall be provided as
2078 required by Article 3.
2079
- 2080 B. Landscape plan standards. Landscape plans for all projects that require a landscape plan, including
2081 Site Development Plans and Subdivision Construction Plans shall be signed and sealed by a landscape
2082 architect, or other licensed professional authorized pursuant to F.S. Chapter 481, Part II, as amended.
2083 All landscape plans shall meet the following requirements and contain the following information:
2084
- 2085 1. Scale of not less than one-inch equals 30 feet. This requirement shall not preclude the inclusion
2086 of a smaller-scaled drawing such as a key map for the purpose of establishing the orientation of
2087 landscape plans for large sites that, because of their size, cannot be displayed on a single sheet.
2088
 - 2089 2. Zoning district and future land use classification for the subject parcel and all abutting parcels.
2090
 - 2091 3. The approximate location, quantity, diameter/caliper, botanical and common name, and native
2092 status of all heritage trees and other existing trees with a caliper of two inches or greater, and
2093 whether they are proposed to be preserved or removed. Trees to be removed, if any, shall be
2094 indicated on a separate sheet.
2095
 - 2096 4. Location, quantity, spacing, diameter/caliper, overall height (at time of planting) of proposed
2097 trees, palm trees, botanical and common name, and native status. Any existing trees located
2098 within the street right-of-way, between the closest outside edge of pavement and the subject
2099 property shall be shown.
2100
 - 2101 5. Location, quantity, spacing, container size, overall height (at time of planting) of proposed shrubs
2102 and groundcover, botanical and common name, and native status.
2103
 - 2104 6. Types, amounts, and placement of other hardscape materials such as berms and walls required
2105 by this section or Section 5.5.13, or both.
2106
 - 2107 7. A statement or plan describing compliance with the irrigation standards of these regulations.
2108
 - 2109 8. Location and type of existing and proposed utility lines, easements, electrical transformer boxes,
2110 fire hydrants or fire appliances, sidewalks, parking spaces, light poles, and stop signs.
2111
 - 2112 9. Indication of existing and proposed grades if existing vegetation is to be retained on site.
2113
 - 2114 10. Existing or proposed onsite curbing.
2115
 - 2116 11. Calculations, notes, and installation details indicating how the proposed landscaping will be in
2117 compliance with requirements of this section.
2118
 - 2119 12. Vegetation protection barricades to be used during construction, for all trees to be preserved.
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 - 2121 13. Safe sight distance triangles.

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- 14. Locations of proposed and existing off-street parking area lighting, if applicable.
- 15. A note that all existing prohibited vegetation shall be removed.

Section 5.5.7. Planting near utility infrastructure.

Landscaping shall not interfere with or obstruct any existing or proposed pad-mounted transformer, overhead or underground utility line, utility service, fire hydrant, or fire appurtenance.

- A. Overhead power lines. Canopy tree branches or palm tree fronds within ten feet of existing overhead transmission or distribution lines, measured radially from the line, shall be subject to trimming or removal by the power company as necessary to maintain public overhead utilities in accordance with the National Electric Safety Code (NESC). No canopy trees or palm trees shall be planted closer to an overhead transmission or distribution line than as specified by the Minimum Separation Distance Between Center of Trees and Overhead Transmission or Distribution Lines indicated in Table 1. In order to avoid conflicts with power lines and avoid the need for removal or pruning that would harm or distort their natural shape, it is recommended that no canopy trees or palm trees should be planted closer to an overhead transmission or distribution line than as specified by the Recommended Separation Distance Between Trees and Overhead Transmission or Distribution Lines indicated in Table 1. The separation between a tree and an overhead transmission or distribution line shall be the distance from the center of the tree at ground level to the closest point on the ground that is within the vertical plane of an overhead transmission or distribution line at rest. A species of canopy tree or palm tree that is not listed in Tables 5.5.7.A and 5.5.7.B shall not be planted within 20 feet of existing overhead transmission or distribution lines without the prior written consent of the Department of Community Development Director.

Table 5.5.7.A: Minimum Separation Distance Between Palm Trees and Overhead Transmission or Distribution Lines			
PALMS			
Common Name	Botanical Name	Minimum Separation Distance (in feet) Between Center of Trees and Overhead Transmission or Distribution Lines	Recommended Separation Distance (in feet) Between Center of Trees and Overhead Transmission and Distribution Lines
Allexandra Palm	Archontophoenix alexandrae	10	13
Areca Palm	Chrysalidocarpus lutescens (Dypsis lutescens)	No minimum distance	No minimum distance
Bamboo Palm	Chamedorea spp.	No minimum distance	No minimum distance
Cabbage Palm (Sabal Palm)	Sabal palmetto	8	13
Canary Island Date Palm	Phoenix canariensis	15	21
Chinese Fan Palm	Livistonia chinensis	8	13

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Christmas Palm	<i>Adonidia merrillii</i> (Veitchii merrillii)	No minimum distance	No minimum distance
Coconut Palm	<i>Cocos nucifera</i>	10	21
Date Palm	<i>Phoenix dactylifera</i>	10	21
Dwarf Palmetto	<i>Sabal minor</i>	No minimum distance	No minimum distance
European Fan Palm	<i>Chamaerops humilis</i>	No minimum distance	No minimum distance
Fishtale Palm	<i>Caryota mitis</i>	8	14
Foxtail Palm	<i>Wodyetia bifurcata</i>	8	15
Lady Palm	<i>Rhapis excelsa</i>	No minimum distance	No minimum distance
Macarthur Palm	<i>Ptychosperma macarthuri</i>	8	14
Majesty Palm	<i>Ravenea glauca</i>	No minimum distance	No minimum distance
Needle Palm	<i>Rhapidophyllum hystrix</i>	No minimum distance	No minimum distance
Paurotis Palm (Everglades Palm) (may grow to 25 feet)	<i>Acoelorrhaphe wrightii</i>	No minimum distance	13
Pindo Palm	<i>Butia capitata</i>	No minimum distance	No minimum distance
Pygmy Date Palm	<i>Phoenix roebellini</i>	No minimum distance	No minimum distance
Queen Palm	<i>Syagrus romanzoffianum</i>	9	18
Royal Palm	<i>Roystonea</i> spp.	10	21
Saw Palmetto	<i>Serenoa repens</i>	No minimum distance	No minimum distance
Senegal Island Date Palm (Reclinata Palm)	<i>Phoenix redinata</i>	8	16
Silver Palm	<i>Coccothrinax argentata</i>	No minimum distance	No minimum distance
Solitare (Alexander) Palm	<i>Ptychosperma elegans</i>	8	14
Thatch Palm	<i>Thrinax</i> spp.	No minimum distance	No minimum distance
Washingtonia Palm (Mexican Washington Palm)	<i>Washingtonia robusta</i>	8	13

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Table 5.5.7.B: Minimum Separation Distance Between Canopy Trees and Overhead Transmission or Distribution Lines			
CANOPY			
Common Name	Botanical Name	Minimum Separation Distance (in feet) Between Center of Trees and Overhead Transmission or Distribution Lines	Recommended Separation Distance (in feet) Between Center of Trees and Overhead Transmission and Distribution Lines

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Bald Cypress	Taxodium distichum	15	30
Black Olive (also see Shady Lady Black Olive)	Bucida buceras	20	30
Cassia fistula	Cassia fistula	15	30
Gumbo Limbo	Bursera simaruba	15	30
Jacaranda	Jacaranda mimosfolia	20	30
Laurel Oak	Quercus laurifolia	15	30
Live Oak	Quercus virginiana	20	30
Mahogany	Swietenia macrophylla	15	30
Pigeon Plum	Cocoloba diversifolia	8	10
Slash Pine	Pinus elliotii	15	30
Southern Magnolia	Magnolia grandiflora	15	30
Wild Tamarind	Lysiloma bahamensis	25	35
Yellow Poinciana	Peltophorum pterocarpum	15	20
Drake Elm	Ulmus parvifolia	15	
Red Maple	Acer rubrum	15	30
Satin Leaf	Chyrsophyllum oliviforme	12	15
Shady Lady Black Olive	Bucida buceras "Shady Lady"	No minimum distance	15
Tabebuia, pink or yellow	Tabebuia spp.	10	15

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Section 5.5.8. Existing trees.

- A. Generally. Except for trees on the Florida Exotic Pest Plant Council's list of Category I invasive exotics, existing trees may be used to meet the minimum tree requirements for the site if they are indicated on the landscape plan (when a landscape plan is required), have a minimum diameter at breast height (DBH) of two inches, and are properly protected during any clearing or construction on the property.

Developers are encouraged to preserve existing heritage trees. For any site other than a single-family or duplex site, if during development or any time throughout the life of the development, regardless of change in ownership or use(s), any heritage tree is removed or damaged, it shall be replaced with a Florida native tree that meets the quality of materials standards in this article, with a minimum caliper of six inches measured at a height of 12 inches above the ground, with a height not less than 20 feet; however, this requirement shall not increase the total number of trees otherwise required for the site by more than 10%.

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- 2166 B. Protection of trees during development activities. Prior to any land preparation or other development
2167 activities, a protective barrier shall be established around all trees that are not to be removed, as
2168 follows:
2169
- 2170 1. The protective barrier shall enclose at least that area within a radius of one foot for every inch of
2171 caliper DBH around the tree.
2172
 - 2173 2. The protective barrier may encompass more than one tree, and shall be established with a barrier
2174 as follows:
2175
 - 2176 a. Posts shall be implanted in the ground deep enough to be stable and with at least three feet
2177 visible above ground.
2178
 - 2179 b. The protective posts shall be placed not more than six feet apart and shall be linked together
2180 at a height of at least three feet by rope, chain, silt fence fabric, or orange safety fence at least
2181 three feet in height, or any combination thereof.
2182
 - 2183 3. Required protective barriers and perimeter lines shall remain in place until all construction
2184 activity, except landscaping within the protected area, is terminated.
2185
- 2186 C. Construction activity limitations.
2187
- 2188 1. No attachment, wires (other than supportive wires), signs or permits may be fastened to any tree
2189 that is not to be removed.
2190
 - 2191 2. Landscaping activities within the area of the protective barrier (before and after it is removed)
2192 shall be accomplished with manual labor or light machinery that, if self-propelled, is not designed
2193 to bear the weight of the operator. Such light machinery may include string trimmers, walk-behind
2194 lawn mowers, or chainsaws. Except as necessary to perform landscaping activities as described
2195 above, no construction personnel shall enter the area within the protective barrier. Further, no
2196 equipment, tools, construction materials, debris of any kind, or more than six inches of soil shall
2197 be placed within the protective barrier.
2198
 - 2199 3. If fill is deposited adjacent to a protective barrier, a suitable temporary or permanent retaining
2200 structure shall be constructed to prevent siltation within the area of the protective barrier.
2201
 - 2202 4. If it can be reasonably accomplished, water, sewer, and other utility lines should be routed around
2203 the protective barrier of trees that are not to be removed. If a line cannot reasonably be routed
2204 around the protective barrier, the line shall be tunneled beneath the area and shall be offset to
2205 one side of the trunk to prevent damage to the main tap roots.
2206
- 2207 D. Exempt trees. This subsection shall not apply to trees grown at commercial nurseries, as part of their
2208 stock.
2209

2210 **Section 5.5.9. Prohibited vegetation.**
2211

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2212 A. The following invasive exotic plants are prohibited and shall be removed from the development site,
 2213 in its entirety. For projects developed in phases, all invasive exotic plants shall be removed from areas
 2214 to be developed under future phases at the time the first or any subsequent phase is developed.
 2215 Methods to remove and control invasive exotic plants must be included on required landscape plans,
 2216 for projects that require a landscape plan. Methods of removal and control that would damage native
 2217 vegetation to be preserved are prohibited. The development sites shall be maintained free from
 2218 invasive exotic plants in perpetuity. For purposes of this subsection, invasive exotic plants include the
 2219 following listed plants, or those plants currently listed as a Category I invasive by the Florida Exotic
 2220 Pest Plant Council (FLEPPC) at the time of development:
 2221
 2222

Table 5.5.9: PROHIBITED INVASIVE EXOTICS	
Common Name	Scientific Name
Earleaf Acacia	acacia auriculiformis
Woman's Tongue	Albizia lebeck
Bishopwood	Bischofia javanica
Australian Pines	All Casuarina species
Carrotwood	Cupianopsis anacardioide
Rosewood	Dalbergia sissoo
Air Potato	Dioscorea alata
Murray Red Gum	Eucalyptus camaldulensis
Cuban Laurel Fig	Ficus microcarpa
Japanese Climbing Fern	Lygodium japonicum
Old World Climbing Fern	Lygodium microphyllum
Melaleuca, Paper Tree	Melaleuca quinquenervia
Downy Rose Myrtle	Rhodomyrtus tomentosus
Chinese Tallow	Sapium sebiferum
Brazilian Pepper, Florida Holly	Schirus terebinthifolius
Tropical Soda Apple	Solanum viarum
Java Plum	Syzygium viarum
Rose Apple	Syzygium jambos
Cork Tree	Thespesia populnea
Wedelia	Wedelia trilobata

2223
 2224 B. The Weeping Fig (*Ficus benjamina*) is prohibited due to aggressive root systems unless it is maintained
 2225 as a hedge with a maximum height of eight feet.
 2226
 2227 C. City of Cape Coral and state-prohibited vegetation shall be removed from all sites prior to issuance of
 2228 certificate of occupancy or certificate of completion.
 2229

Section 5.5.10. Quality, size, spacing, and species mix.

2230
 2231
 2232 All plant materials required by this section shall conform to the following at the time of planting:

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- A. Plant installation standards. Plant materials shall be installed in soil conditions that are conducive to the proper growth of the plant material. Soil in planting areas shall be loose, permeable, friable, and free of limestone and other construction materials, off-street parking area base material, rocks, noxious weeds, grasses, hard pan, clay, or other debris. For purposes of this section, noxious weeds are those plants listed in Section 5B-57.007, F.A.C, State Noxious Weed List, by the Florida Department of Agriculture and Consumer Services. It is recommended that such materials be removed to a depth of two and one-half feet for the well-being of plant materials. Required canopy trees, accent trees, palm trees, and shrubs shall be planted on grades not exceeding 3:1.
- B. Plant species and grade. A minimum of 50% of all required canopy trees and accent trees and a minimum of 30% of all required shrubs and groundcovers, excluding turf grass areas, shall be Florida native as defined by this section. Any plant material on the Florida Exotic Pest Plant Council's list of Category I invasive exotics, as may be amended, shall not be counted toward the required plantings in this section. The City of Cape Coral prohibits the use of any plant material on the Florida Exotic Pest Plant Council's list of Category II invasive exotics, which are not expressly prohibited by Section 5.5.9. Plant materials used in conformance with the provisions of this section shall meet or exceed the Standards for Florida No. 1, as set forth in the latest edition of "Grades and Standards for Nursery Plants" published by the State Department of Agriculture and Consumer Services, including minimum crown spread diameter, root-ball sizes, and container volumes.
- C. Tree standards.
 1. Canopy tree size. Except in the South Cape Downtown District, all canopy trees required to meet minimum requirements shall have a minimum height of ten feet, and shall have a minimum caliper of two inches measured at a height of 12 inches above the ground. In the South Cape Downtown District, all canopy trees required to meet minimum requirements shall have a minimum height of 12 feet and a minimum caliper of three inches measured at a height of 12 inches above the ground.
 2. Palm tree size. Palm trees required to meet minimum requirements shall have a minimum size of 16 feet overall, unless located within ten feet of a walkway, in which case they shall have a minimum of ten feet of clear trunk at planting.
 3. Accent tree size. Accent trees required to meet minimum requirements shall have a minimum height of eight feet, have a minimum caliper of one and one-half inches measured at a height of six inches above the ground.
 4. Tree species mix. A mix of species shall be provided according to the overall number of trees required to be planted. Species shall be planted in proportion to the required mix. The minimum number of species to be planted is indicated in Table 2.

Table 5.5.10: Required Species Mix	
Required Number of Trees	Minimum Number of Species

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1 - 4	1
5 - 10	2
11 - 20	3
21 - 30	4
31+	5

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5. Shrub standards. Except as otherwise provided herein, shrubs planted in residential development shall be a minimum of 18 inches in height and be in at least a three-gallon container size at time of planting. Shrubs planted in all non-residential and mixed-use development must be a minimum of 24 inches in height and be in at least a seven-gallon container size at time of planting. Shrubs required for buffer yard plantings must be a minimum of 32 inches in height and be in at least a seven-gallon container size at time of planting. Ornamental grasses may be used in lieu of 30% of shrubs required. Saw palmettos (*Serenoa repens*) and coonties (*Zamia floridana*) may be used as shrubs, provided they are 12 inches in height at time of planting.
6. Groundcovers and sod.
 - a. Groundcovers shall be planted no more than 24 inches apart for one-gallon pots or 12 inches apart for four-inch pots.
 - b. Wherever used, sod shall be installed with no gaps or overlaps, so as to present a finished appearance and prohibit erosion of the planted area.
7. Firewise landscaping. Landscaping within areas subject to wildfire hazard and should incorporate firewise landscaping techniques promulgated by the Florida Department of Economic Opportunity and the Department of Agriculture and Consumer Services.

Section 5.5.11. Planting in public drainage or utility easements.

No canopy trees, accent trees, palm trees, or shrubs required by this section shall be planted within a public drainage or utility easement without approval of the city. The city may deny approval to place landscaping materials in an easement if such would conflict with existing or proposed utilities or drainage functions. If the city approves the placement of any plant material installed to meet the requirements of this section within a public drainage or utility easement and the landscape material is removed or damaged by construction or maintenance of drainage facilities or utilities, the property owner shall replace all such plant material within 30 days of the completion of the drainage or utility work, in accordance with the following criteria:

- A. Canopy trees.
 1. If planted back in the public drainage or utility easement, the property owner shall replace the canopy tree with a tree having a minimum caliper as the removed or damaged tree; however, if the removed or damaged tree is greater than four inches in caliper (measured at a height of 12 inches above the ground), the replacement tree shall be required to be a minimum of four inches in caliper.

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2315
2316 2. If planted in an alternate location that is not within a public drainage or utility easement, the
2317 property owner shall replace the canopy tree with one meeting the minimum size required within
2318 this Chapter and that is subject to all other requirements of this section. For sites required to have
2319 a site plan, such alternate plant location shall be indicated on a revised landscape plan and is
2320 subject to approval by the city.

2321
2322 B. Palm trees.

2323
2324 1. If planted back in the public drainage or utility easement, the property owner shall replace the
2325 palm tree with a palm tree having a minimum caliper as the removed or damaged palm tree;
2326 however, if the removed or damaged palm tree is greater than nine inches in caliper (measured
2327 at a height of 12 inches above the ground), the replacement palm tree shall be required to be a
2328 minimum of nine inches in caliper.

2329
2330 2. If planted in an alternate location that is not within a public drainage or utility easement, the
2331 property owner shall replace the palm tree with one meeting the minimum size required within
2332 this Chapter and that is subject to all other requirements of this section. For sites required to have
2333 a site plan, such alternate plant location shall be indicated on a revised landscape plan and is
2334 subject to approval by the city.

2335
2336 C. Shrubs. Regardless of whether the shrub is located in a public drainage or utility easement, the
2337 property owner shall replace the shrub with a shrub meeting the minimum size required within this
2338 chapter.

2339
2340 The property owner shall notify the city when the replacement planting required by this subsection
2341 have been installed and are ready for re-inspection.

2342
2343 **Section 5.5.12. Single-family homes and duplexes.**

2344
2345 The following landscape requirements shall be met for all single-family and duplex units.

2346
2347 A. Trees required for single-family homes. All newly constructed single-family homes shall have a
2348 minimum number of trees per building site in accordance with Table 5.5.12.A: Trees Required for
2349 Single-Family Homes. Where a home site includes a septic tank between the structure and the street,
2350 trees shall be planted a minimum of six feet from the septic tank or its drain field.

2351

Table 5.5.12.A: Trees Required for Single-Family Homes			
	Canopy Trees	Accent Trees	Palm Trees
Option A:	3	—	—
Option B:	2	—	3
Option C:	2	2	—
Option D:	1	2	3

2352

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2353 B. Trees required for Duplexes. All newly constructed duplexes shall have a minimum number of trees
2354 per side in accordance with Table 5.5.12.B Trees Required for Duplexes. Where a site includes a septic
2355 tank between the structure and the street, trees shall be planted a minimum of six feet from the septic
2356 tank or its drain field.
2357
2358

Table 5.5.12.B: Trees Required for Duplexes (PER SIDE)			
	Canopy Trees	Accent Trees	Palm Trees
Option A:	3	—	—
Option B:	2	—	3
Option C:	2	2	—
Option D:	1	2	3

2359 C. Credit for larger, canopy trees. The required number of canopy trees may be reduced by one tree if
2360 an existing or proposed canopy tree is at least two inches of increased caliper above the minimum
2361 planting size specified in this Chapter. Single-family homes and duplexes are not eligible for the Tree
2362 Credit Program provided by Section 5.5.15.
2363
2364

2365 D. Shrubs required. Each single-family home and duplex shall be landscaped with a minimum of 20 three-
2366 gallon shrubs of which a minimum of ten shall be planted at any location in the front yard.
2367

2368 E. Mulch, groundcover, and planting beds.
2369

2370 1. The soil surface of the land area not covered by structures or hardscape features shall be covered
2371 with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs, groundcover,
2372 or any combination thereof. When shrubs are used in planting beds, shall be planted not more
2373 than 48 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used
2374 to cover more than 20% of the total land area not covered by structures or hardscape features
2375 and is not within a front yard or right-of-way.
2376

2377 2. A two-inch minimum layer of organic mulch, measured after watering-in, shall be placed and
2378 maintained around all newly installed canopy trees, accent trees, palm trees, and shrubs. A two-
2379 inch minimum layer of organic mulch, measured after watering-in, shall be placed around all
2380 newly installed groundcover plants so that bare areas of sod are not exposed; however, the mulch
2381 around groundcover plants is not required to be maintained after the groundcover becomes
2382 established. Except as otherwise provided in these regulations, each canopy tree, accent tree, and
2383 palm tree shall have organic mulch no less than 36 inches beyond its trunk in all directions;
2384 however, the mulch shall be kept away from the trunks and stems of plants so as to avoid
2385 conditions that may be conducive to collar rot, basal canker, or other fungi. The use of cypress or
2386 cedar mulch is strongly discouraged.
2387

2388 3. The use of any inorganic mulch, including pebbles or shells to cover the soil surface is not
2389 recommended. Inorganic mulch should only be used to frame the outside of beds or to control

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2390 erosion and should not be used to cover the root ball of newly planted trees or shrubs. Inorganic
2391 mulch shall not exceed 10% of the total land area not covered by hardscape features.
2392

2393 4. The right-of-way from the edge of the street pavement to the property line shall be planted with
2394 sod or other approved groundcovers, except as otherwise provided in the City of Cape Coral Code
2395 of Ordinances or Land Use and Development Regulations.
2396

2397 F. Irrigation systems. Irrigation systems are encouraged but not required; however, where they are
2398 installed, they shall meet the standards of Section 5.5.14.
2399

2400 **Section 5.5.13. Landscaping for all development other than single-family homes and duplexes.**
2401

2402 The provisions of this section shall not apply to single-family homes and duplexes unless otherwise
2403 specifically stated herein. The soil surface of the land area not covered by structures or hardscape features
2404 shall be covered with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs,
2405 groundcover, or any combination thereof. Shrubs in planting beds shall be planted not more than 48
2406 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used to cover more
2407 than 20% of the total land area not covered by structures or hardscape features and is not within a front
2408 yard or right-of-way. The right-of-way from the edge of the street pavement to the property line shall be
2409 planted in accordance with the requirements of subsection B. below.
2410

2411 A. Tree planting requirements.
2412

2413 1. Except in the South Cape District, all sites, exclusive of buffer areas, shall have at least one canopy
2414 tree for each 1,000 square feet of gross land area, except that accent trees or palm trees may be
2415 substituted for a required canopy tree as indicated below. Trees required for buffers may be used
2416 for meeting the minimum number of trees required for a site. In the South Cape District, all sites
2417 shall have at least one canopy tree for each 3,500 square feet of gross land area, except that
2418 accent trees or palm trees may be substituted for a required canopy tree as indicated below. For
2419 all districts, in the event the calculation of required number of canopy trees yields a fractional
2420 number, that number shall be rounded up to the next highest whole number prior to any
2421 calculation of the quantity of substituted accent trees or palm trees. Trees planted to meet the
2422 other requirements of this section can be included in the calculation of total number of trees
2423 required by this section. Such trees may be planted singularly or grouped together. Required
2424 canopy trees shall not be spaced less than 20 feet on center. Except in the South Cape District,
2425 each canopy tree shall be planted in a minimum planting area of 100 square feet with a minimum
2426 dimension of seven feet in width unless an alternative minimum planting area or dimensions are
2427 approved by the Director, based on planting details that ensure reasonable soil surface and
2428 planting medium volumes.
2429

2430 2. In the South Cape District, each canopy tree shall be planted a minimum planting area of 24 square
2431 feet with a minimum dimension of four feet in width unless an alternative minimum planting area
2432 or dimensions are approved by the Director, based on planting details that ensure reasonable soil
2433 surface and planting medium volumes. Except in the South Cape District not more than 50% of
2434 the required canopy trees may be substituted with accent trees or palm trees in accordance with

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2435 Section 5.5.13. In the South Cape District, not more than 25% of the required canopy trees may
2436 be substituted with accent trees or palm trees, in accordance with Section 5.5.13., as follows:
2437

2438 a. Accent trees may be substituted for required canopy trees at a rate of two accent trees for
2439 each canopy tree required; however, no canopy tree required for a landscape buffer yard shall
2440 be substituted with an accent tree, unless the minimum width of available buffer yard options
2441 would preclude compliance with the minimum separation distance between trees and
2442 overhead power lines.
2443

2444 b. The following palms shall not be substituted for required canopy trees:
2445

Table 5.5.13.A: PROHIBITED SUBSTITUTIONS FOR CANOPY TREES	
Common Name	Botanical Name
Areca Palm	Chrysalidocarpus lutescens (Dypsis lutescens)
Bamboo Palm	Chamedorea spp.
Christmas Palm	Adonidia merrillii (Veitchii merrillii)
Dwarf Palmetto	Sabal minor
European Fan Palm	Chamaerops humilis
Lady Palm	Rhapis excelsa
Majesty Palm	Ravenea glauca
Needle Palm	Rhapidophyllum hystrix
Pygmy Date Palm	Phoenix roebellini
Saw Palmetto	Serenoa repens
Silver Palm	Coccothrinax argentata
Thatch Palm	Thrinax spp.

2446
2447 To meet tree planting requirements in a landscape buffer yard or in off-street parking and
2448 vehicle use areas, palm trees, other than those listed above, may be substituted for canopy
2449 trees at a rate of three palm trees per each canopy tree substituted, regardless of the palm
2450 tree species. Except in the South Cape Downtown District, to meet tree planting requirements
2451 for areas other than a landscape buffer or off-street parking and vehicle use areas, palm trees
2452 may be substituted for required canopy trees at a rate of one palm tree per each canopy tree
2453 substituted. In the South Cape Downtown District, to meet tree planting requirements for
2454 areas other than a landscape buffer yard, palm trees may be substituted for required canopy
2455 trees at a rate of two palm trees per each canopy tree substituted.
2456

2457 c. Except for plantings in or near surface water management areas, a two-inch minimum layer
2458 of organic mulch, measured after watering-in, shall be placed and maintained around all
2459 newly installed canopy trees, accent trees, palm trees, and shrubs. Except in the South Cape
2460 District, each tree shall have organic mulch no less than 36 inches beyond its trunk in all
2461 directions. In the South Cape District, each tree shall have organic mulch no less than 18
2462 inches beyond its trunk in all directions. All mulch shall be kept away from the trunks and
2463 stems of plants so as to avoid conditions that may be conducive to collar rot, basal canker, or
2464 other fungi.

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The use of cypress or cedar mulch is strongly discouraged.

- d. The use of any inorganic mulch, including pebbles or shells to cover the soil surface shall only be used to frame the outside of beds or to control erosion. Inorganic mulch shall not exceed 10% of the total land area not covered by structures, pools, accent boulders, driveways, sidewalks, or other paving. It be used to cover the root ball of newly planted trees or shrubs. The balance of the soil surface shall be covered with planting beds with a two-inch minimum layer of organic mulch.
- e. Canopy trees shall not be planted within seven feet of any roadway, sidewalk, or public utility unless an acceptable root barrier material is installed between the tree and the roadway, sidewalk, or public utility. Acceptable root barrier material shall consist of one of the following: a manufactured root barrier material, installed in accordance with manufacturer's directions, reinforced concrete with a minimum depth of 16 inches, or a continuous sheet of aluminum with a minimum depth of 16 inches and a minimum thickness of 0.024 inches. Where a root barrier is required, it shall be installed for a minimum distance of 20 linear feet.
- f. In the event a property owner installs a public sidewalk closer than seven feet to any extant canopy tree, the property owner shall install an acceptable root barrier material in accordance with manufacturer's directions, such as herbicide impregnated materials or reinforced concrete of sufficient width and length, which will prevent the encroachment or undermining by the tree's root system, prior to the installation of the sidewalk.
- g. In the South Cape District, in the event that the tree requirements in this section cannot be met due to site constraints, the property owner may pay an in lieu of fee to the Downtown CRA Tree Fund. Such site constraints shall include size of site, access or circulation requirement making trees impracticable, or extant site layout. The City Council shall establish a fee based on the average cost of the aforementioned trees. The city will use the funds in the Downtown CRA Tree Fund to provide or enhance the landscaping and vegetation in public areas of the Downtown CRA. To qualify to pay an in lieu of tree fee, a property owner must apply for approval by the Director of the Department of Community Development. If the Director approves the application, then the property owner may pay an in lieu of tree fee meeting planting requirements. This provision does not preclude applicants from applying for deviations in accordance with Section 5.5.20.

B. Right-of-way. The right-of-way from the edge of the street pavement to the property line shall be planted with sod or other approved groundcovers, except as otherwise provided in the City of Cape Coral Code of Ordinances or Land Development Code.

C. Landscape design features. Six types of landscaping may be required on a site, depending on the site location and the specific elements of the development: foundation landscaping, landscaping adjacent to roads, off-street parking and vehicle use areas, retention/detention areas, and buffers. Trees planted to meet the requirements of these landscape design features can be included in the calculation of total number of trees required by this section under tree planting requirements.

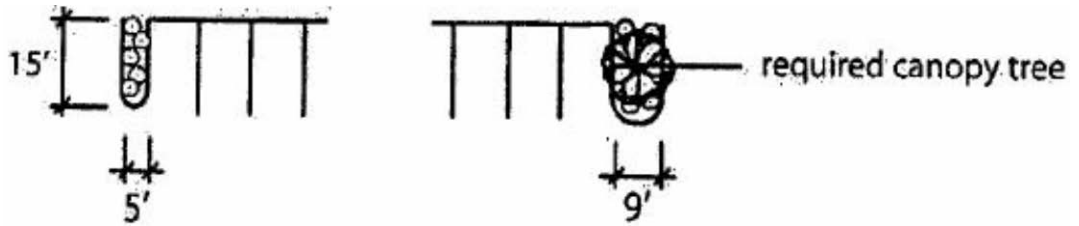
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- 2511 1. Foundation Landscaping. To provide aesthetic relief between a building and off-street parking or
2512 vehicular use areas, all new development, except development in the Industrial District and South
2513 Cape District, must provide foundation landscaped areas equal to 10% of the proposed building
2514 gross ground level floor area. These foundation landscaped areas must be between the off-street
2515 parking area and the building, between public streets and the building, or between vehicular
2516 access ways and the building, or any combination thereof, with emphasis on the side(s) most
2517 visible to the public. Foundation landscaping may consist of surface level landscaped areas, raised
2518 planters, planter boxes, or any combination thereof. The width of the foundation landscaped
2519 areas shall be five feet, except for sites less than one acre with an average depth less than or equal
2520 to 135 feet, in which case the width shall be three feet. Foundation landscaped areas may be
2521 planted with trees, but must be planted with shrubs spaced a maximum of three feet on centers.
2522
- 2523 2. Landscaping Adjacent to Roads. Where a development site abuts a public right-of-way, excluding
2524 a dedicated alley, the following shall apply except within Mixed-Use Districts:
2525
- 2526 a. Except as otherwise provided herein, a strip of land, a minimum of ten feet in width, shall be
2527 provided between the abutting right-of-way and any structure or off-street parking area. For
2528 sites or portions of sites that are 135 feet or less in depth, the width may be reduced to five
2529 feet.
2530
- 2531 b. At a minimum, perimeter landscaping in this area shall consist of the following:
2532
- 2533 i. One shrub for every three linear feet of landscaped area, planted separately or grouped,
2534 except where a carport or an off-street parking or vehicular use area abuts the strip of
2535 land that is required adjacent to roads. Where a carport or an off-street parking or
2536 vehicular use area abuts the strip of land required adjacent to roads, a continuous hedge,
2537 consisting of shrubs spaced no greater than three feet on center is required.
2538
- 2539 ii. The requirement for canopy trees or accent trees depends on the presence of overhead
2540 electric distribution or transmission lines. Shade or accent trees shall be provided as
2541 follows:
2542
- 2543 (a) Except as provided below, one canopy tree for each 30 linear feet of frontage is
2544 required. If the calculations yield a fractional number, that number shall be rounded
2545 up to the next highest whole number. Trees may be placed in any arrangement within
2546 the landscape strip provided that the spacing between tree trunks is no greater than
2547 60 feet.
- 2548 (b) In locations where an adequate separation distance from overhead distribution or
2549 transmission lines, as specified in Table 1, § 5.2.7., is not available, two accent trees
2550 may be substituted for any shade tree required for each 30 linear feet of frontage.
2551
- 2552 c. Ingress and egress from the public right-of-way through all such landscaping to off-street
2553 parking or other vehicular use areas shall be permitted and may be subtracted from the linear
2554 dimension used to determine the number of trees and shrubs required.
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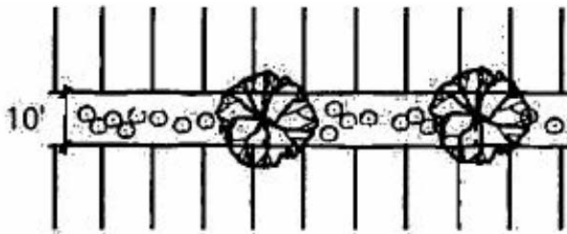
- 2556 d. Visibility triangles. As an aid to allow for safe operation of vehicles, pedestrians, and cyclists
2557 in the proximity of intersecting streets, driveways, alleys, and bicycle paths, there shall be
2558 limitations on the height of fences, walls, gateways, ornamental structures, signs, hedges,
2559 shrubbery, and other fixtures as visually depicted in the Cape Coral Engineering and Design
2560 Standards and as follows:
- 2561 i. All landscaping and signs within the visibility triangle shall provide unobstructed
2562 visibility between 30 inches and eight feet, with the exception of tree trunks that do not
2563 create a traffic hazard.
 - 2564 ii. The property owner shall be responsible for maintaining all landscaping within the
2565 visibility triangle to provide the unobstructed visibility.
 - 2566 iii. The Community Development Director shall make the final determination regarding
2567 visibility triangles.
2568
- 2569 3. Off-street parking and vehicle use areas. The provisions of this section apply to all new off-street
2570 parking or other vehicular use areas not situated directly beneath a building containing habitable
2571 space.
2572
- 2573 a. Protection of landscaped areas from vehicular encroachment. When a landscaped area abuts
2574 or is within an off-street parking or vehicular use area, wheel stops or curbing shall be used
2575 to protect landscaped areas from encroachment. The placement of shrubs and trees shall be
2576 in accordance with the Parking Lot Standards of the City of Cape Coral Engineering Design
2577 Standards.
2578
 - 2579 b. Except in the South Cape District, landscaping for sites with both of the following: 1) an average
2580 depth less than or equal to 135 feet and 2) an area less than or equal to one acre. All off-street
2581 parking areas shall be landscaped to provide visual relief and cooling effects and to define
2582 logical areas for pedestrian and vehicular circulation, as follows:
2583
 - 2584 i. Minimum landscaped area. Landscaped areas including, but not limited to, landscaped
2585 islands, foundation landscaping, and landscaping within divider medians shall equal or
2586 exceed a minimum of 5% of the total off-street parking and vehicle use areas.
 - 2587 ii. Tree planting. At least one canopy tree shall be provided for every 150 square feet of
2588 required planting area. Palm trees may be substituted for canopy trees in accordance with
2589 this Chapter.
 - 2590 iii. Divider medians. Where canopy trees are planted in divider medians, the minimum width
2591 of the divider median shall be nine feet.
 - 2592 iv. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing
2593 ten or more parking spaces shall be terminated by a landscaped area at each end that
2594 measures not less than five feet in width and not less than 15 feet in length. No trees shall
2595 be planted in landscaped islands less than nine feet in width.
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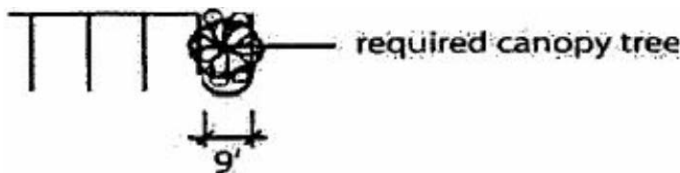
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- c. Except in the South Cape District, landscaping for sites with either of the following: 1) an average depth greater than 135 feet; or 2) an area greater than one acre. All off-street parking areas shall be landscaped to provide visual relief and cooling effects and to define logical areas for pedestrian and vehicular circulation, as follows:
 - i. Minimum landscaped area. Landscaped areas including landscaped islands, foundation landscaping, and landscaping within divider medians shall equal or exceed a minimum of 10% of the total paved surface area. Landscaped areas reserved for future parking spaces may not be included in this calculation.
 - ii. Tree planting.
 - (1) At least one canopy tree shall be provided for every 150 square feet of required planting area. Palm trees may be substituted for canopy trees in accordance with this Chapter.
 - (2) No parking space may be more than 100 feet from a tree.
 - iii. Divider medians. If a divider median is used to meet the landscaping requirements, it shall be a minimum width of nine feet.



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- iv. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing ten or more parking spaces shall be terminated by a landscaped area that measures not less than nine feet in width and not less than 15 feet in length. Each such landscaped area shall be planted with at least one canopy tree. Palm trees may be substituted for canopy trees in accordance with this Chapter.



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- 2629 v. Landscape materials. All interior landscaped areas not dedicated to trees or to
2630 preservation of existing vegetation shall be landscaped with grass, groundcover, shrubs
2631 or other approved landscaping materials and this shall be noted on the landscape plans.
2632
- 2633 d. Landscaping for sites in the South Cape District. Except within city dedicated parking areas, all
2634 off-street parking areas and applicable off-street parking area setbacks shall be landscaped to
2635 provide visual relief and cooling effects and to define logical areas for pedestrian and
2636 vehicular circulation, as follows:
2637
- 2638 i. Minimum landscaped area.
2639
- 2640 (1) Unless otherwise provided herein, all required landscape areas shall be planted with
2641 trees, shrubs, groundcover, sod, or any combination thereof. At a minimum, the
2642 landscape area(s) shall include low-lying shrubs or ground cover plants with a
2643 minimum 50% coverage of the landscape area at time of planting. When utilized,
2644 shrubs shall be planted at no more than three feet on center.
- 2645 (2) All applicable minimum off-street parking area setbacks required by Article 4, Chapter
2646 5, except rear when abutting an alley, shall be landscaped unless otherwise provided
2647 herein. This provision shall not apply to portions of setbacks areas utilized for shared
2648 curb cuts, joint driveways and shared off-street parking areas across lot lines.
- 2649 (3) Ingress and egress from the right-of-way through any setback area is permitted and
2650 the width of the ingress and egress may be subtracted from required landscape areas.
2651
- 2652 ii. Landscaping for lots with a lot frontage greater than or equal to 125 feet. Off-street
2653 parking areas containing 24 or more parking spaces shall provide a landscaped area that
2654 measures not less than nine feet in width and not less than 15 feet in length for every 12
2655 parking spaces. Such landscaped area(s) shall be located as intermediate within or
2656 terminal islands to parking space rows. Each such landscaped area shall be planted with
2657 at least one canopy tree and groundcovers or sod.
2658
- 2659 4. Retention/detention areas.
2660
- 2661 a. Planting of trees, palm trees, shrubs, and groundcovers in retention/detention areas is
2662 encouraged, provided that the placement does not conflict with the volume of storage
2663 required for the retention/detention areas and does not significantly interfere with or impede
2664 the flow of runoff in the retention/detention area.
2665
- 2666 b. All retention/detention areas shall be stabilized with sod or other groundcover capable of
2667 stabilizing the soil. Organic mulch is not allowed.
2668
- 2669 5. Buffers.
2670
- 2671 a. Determination of required buffer. Landscape buffer and screening shall be required to
2672 separate uses of differing zoning districts from each other. The type and width of buffer
2673 required shall be determined by using Table 5.5.13.B: Table of Minimum Buffer Requirements.
2674 If the developing property contains a non-residential use in a Residential District, the buffer

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2675 shall be as indicated along the row labeled "Non-Residential Uses in Residential Districts";
 2676 otherwise, the buffer required shall be as indicated along the row of the developing property's
 2677 zoning district under the applicable column. The buffer that is required along any segment of
 2678 property line, if any, is dependent on the zoning of the abutting property and property
 2679 separated by only a street containing not more than two lanes for motor vehicle traffic. A
 2680 bicycle "lane" shall not be considered to be a lane for motor vehicle traffic. The specifications
 2681 for each type of buffer are provided in Table 5.5.13.B.
 2682

TABLE 5.5.13.B MINIMUM BUFFER WIDTH With wall/Without wall										
DEVELOPING PROPERTY	ZONING	ZONING OF ABUTTING PROPERTY OR PROPERTY SEPARATED BY ONLY A STREET CONTAINING NOT MORE THAN TWO LANES FOR MOTOR VEHICLE TRAFFIC								
		R1, RE	RML	RMM	C	CC	P	I	INST	SC, MXB
	R-1, RE	X	X	X	X	X	X	X	X	X
	RML	5	X	X	X	X	X	X	X	X
	RMM	10 / 20	5	X	X	X	X	X	X	X
	C	10 / 20	10 / 15	10 / 15	X	X	X	X	X	X
	CC	10 / 20	10 / 15	10 / 15	X	X	X	X	X	X
	P	5	5	5	X	X	X	X	X	X
	I	40 wall	40	40	10 / 20	10 / 20	30	X	X	X
	INST	10 / 20	10 / 20	10 / 20	X	X	X	X	X	X
	SC, MXB	5	5	5	X	X	X	X	X	X

- 2683
 2684 b. Buffer specifications.
 2685
 2686 i. The standards for minimum width, plant types and quantities, and opaque features shall
 2687 be in accordance with Table 5.5.13.B: Minimum Buffer Width and Table 5.5.13 C, Buffer
 2688 Plantings. All plants provided within a buffer are specific to, and must be located within
 2689 the buffer area. The buffer landscaping is in addition to other landscaping required by this
 2690 Chapter and this landscaping must be within the buffer area. For buffer options that
 2691 include a wall, the wall must conform to the standards of Article 5, Chapter 2, including
 2692 the setback requirements.
 2693 ii. The buffer width shall be measured along a line perpendicular or radial to the property
 2694 line.
 2695 iii. The number of each type of plant required shall be determined by dividing the length of
 2696 each side of the property requiring a given type of buffer by 100 and multiplied by the
 2697 number of plants per 100 feet indicated for a selected option. If the calculations yield a
 2698 fractional number, that number shall be rounded up to the next highest whole number.
 2699 iv. If a wall is required, the wall shall extend the entire length of the property line, or until it
 2700 connects to another wall.
 2701 v. Ingress and egress from the right-of-way through any buffer shall be avoided; however,
 2702 where it is determined by the city that avoidance is impractical or not preferable due to
 2703 traffic flow or safety considerations, penetration through a buffer to ingress and egress
 2704 from the right-of-way may be permitted and the width of the ingress and egress can be

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- subtracted from the length of the buffer for the calculation of the number of plants required.
- vi. Plants, berms, or walls required for buffers within required sight triangles shall be in accordance with standards provided in Article 5, Section 1. Further, no fence, wall, or plant material shall be placed within a buffer that would impede the movement of or obstruct the view of either a pedestrian or driver of a vehicle that would create a potential safety hazard.

TABLE 5.5.13 C: - BUFFER PLANTINGS Plants per 100 Linear Feet - Canopy/Accent/Shrub										
DEVELOPING PROPERTY	ZONING	ABUTTING PROPERTY								
		R-1, RE	RML	RMM	C	CC	P	INST	I	SC, MXB
	R-1, RE	X	X	X	X	X	X		X	
	RML	4/0/33	X	X	X	X	X		X	
	RMM	5/5/66	4/0/33	X	X	X	X		X	
		5/3/33 w/wall								
	C	5/5/66	5/5/66	5/5/66	X	X	X		X	
		5/3/33 w/wall	3/2/33 w/wall	3/2/33 w/wall						
	CC	5/5/66	5/4/33	5/2/66						
		5/3/33 w/wall	3/2/66 w/wall	5/4/32	X	X	X		X	
	P	3/2/33	4/0/33	4/0/33	X	X	X		X	
	I	9/4/80 w/wall	8/6/48	8/6/48	5/5/66	5/5/66	10/8/64		X	
			5/3/66 w/wall	5/3/66 w/wall	5/3/33 w/wall	5/3/33 w/wall				
	INST	5/5/66 5/3/33	5/5/66 5/3/33	5/5/66 5/3/33	X	X	X		X	
	SC, MX	4/0/33	4/0/33	4/0/33						

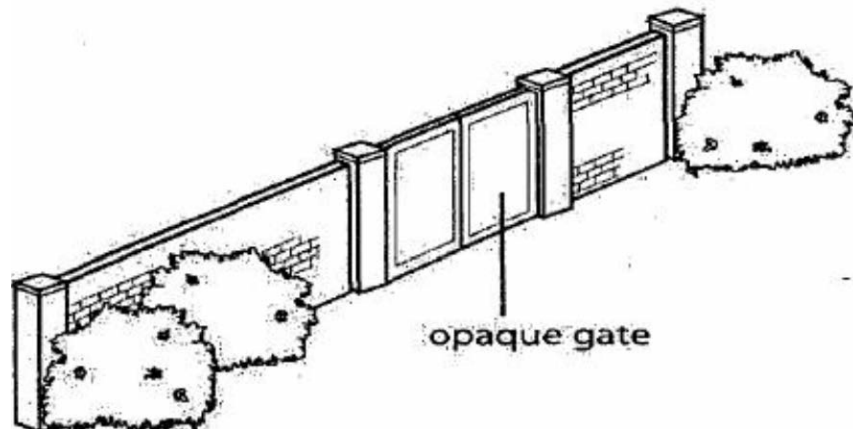
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- c. Buffer requirements. No development within required buffer. Required buffer shall not contain any development other than drainage facilities, sidewalks, plants, walls, or berms. Driveways shall only be allowed in the required buffer if the buffer runs along a street. No grading, development, or land-disturbing activities shall occur within the buffer unless as part of an approved development or landscape plan.
- d. Buffer maintenance.
- i. Any landscape buffer required pursuant to this section shall be maintained in order to preserve such buffer.
- ii. The plantings, walls, and berms that constitute screening for any buffer required pursuant to this section shall be maintained for the life of the development. Such maintenance shall

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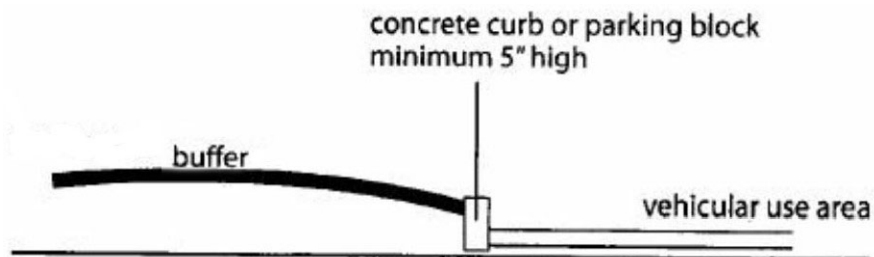
- 2726 include all actions necessary to keep the buffer free of litter and debris, and to keep
2727 plantings, walls, and berms in good repair and neat appearance.
- 2728 iii. In the event that any buffer screening or any element thereof, is damaged or fails to live
2729 so that it no longer furthers the purpose and intent of this section, it shall be replanted or
2730 replaced, whichever is applicable, with the type and size of material specified on the
2731 landscape plan.
- 2732
- 2733 e. Plant and tree arrangement. Required plants and trees shall be distributed in a manner to
2734 meet the intent of screening incompatible uses. In the event that plant materials are
2735 prohibited in a public drainage or utility easement which abuts or is coincident with a buffer,
2736 no new plant materials shall be centered closer than two feet from such easement.
- 2737
- 2738 f. Existing vegetation.
- 2739
- 2740 i. Retaining existing Florida native trees and other vegetation within a buffer is strongly
2741 encouraged.
- 2742 ii. If existing plants do not fully meet the standards for the type of buffer required, additional
2743 plant materials shall be installed.
- 2744
- 2745 g. Buffer walls and berms.
- 2746
- 2747 i. Whenever a wall is required within a buffer, it is shown in Table 5.5.13.B.
- 2748 ii. Where the buffer requires a berm, the berm shall be graded to appear smooth, rounded,
2749 and natural. Slopes shall not exceed a 3:1 grade.
- 2750 iii. Whenever a wall is required within a buffer, the wall shall conform to all requirements of
2751 Article 5 Section 2, and the requirements herein, and all other requirements for a wall.
2752 The wall may be placed anywhere in the buffer, provided at least 75% of the required
2753 trees and 100% of the required shrubs are on the side facing outward toward the right-
2754 of-way or abutting property (facing away from the property on which the wall is erected).
2755 Bare concrete block, even if painted, is prohibited. The following materials, either singly
2756 or in any combination, are the only materials that may be used to form the wall:
- 2757
- 2758 (a) Concrete block coated with stucco;
2759 (b) Textured concrete block;
2760 (c) Stone;
2761 (d) Brick; or
2762 (e) Formed, decorative, or precast concrete.
- 2763
- 2764 iv. Whenever a wall is required within a buffer, it shall be 100% opaque and shall be the
2765 maximum height allowed for the use and the location of the wall.
- 2766
- 2767 h. Gates. A gate may be allowed in a buffer wall, provided such gate is opaque, unless spanning
2768 a vehicular entrance, and meets the intent and purpose of this section. Gates shall be
2769 maintained in accordance with the maintenance standards for screening contained in this
2770 section.

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- i. Staggered walls. Whenever a wall is required within a buffer, it may be divided along the length of a buffer so that a wall consists of a series of wall segments instead of a continuous line. Such a divided wall shall be allowed only if it meets the intent and purpose of this section and if the wall segments overlap by a minimum of one-half of the distance between the two wall segments.
- j. Vehicular use areas. Concrete curbs or wheel stops at least five inches high shall be provided between vehicular use areas and buffer areas.



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- 3. Location of buffer.
 - a. The landscape buffer required by this section shall be located along the perimeter of a property except at approved entrances or exits to the parcel.
 - b. Buffers shall extend to the lot line or right-of-way line, except where easements, covenants, visibility triangles, or natural features require the buffer to be set back from the property line. The presence of an easement, covenant, or natural feature does not necessarily preclude the placement of a buffer, unless due to the nature of the easement, covenant, or natural feature the placement of a buffer would be precluded.
 - c. Nothing other than open landscaped areas shall be located between the required buffer and the site perimeter unless the presence of an easement, covenant, or natural feature, which due to its nature, would preclude open landscaped areas.

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2799 d. Buffers may not be located on any portion of an existing or dedicated street right-of-way or
2800 roadway easement.
2801

2802 **Section 5.5.14. Irrigation.**
2803

2804 All landscaping shall contain an automatic irrigation system. All required irrigation systems shall be
2805 designed to minimize the application of water to impervious areas, including roads, drives, and other
2806 vehicle areas. Required irrigation shall also be designed to avoid damage to existing native vegetation
2807 from over watering or from physical conflicts with plant roots. The following standards shall apply to the
2808 design, installation, and maintenance of irrigation systems:
2809

- 2810 A. The irrigation system shall be properly maintained and operated consistent with watering
2811 schedules established by the South Florida Water Management District or the City of Cape Coral,
2812 whichever is more restrictive.
2813
- 2814 B. Existing native plants are exempt from this requirement.
2815
- 2816 C. Automatic control systems shall be equipped with an operable rain sensor or other devices, such
2817 as soil moisture sensors, to prevent unnecessary irrigation.
2818

2819 **Section 5.5.15. Tree credits.**
2820

- 2821 A. Tree credits for all development other than single-family homes and duplexes are available, to
2822 encourage the planting of larger trees than are otherwise required and to preserve trees existing on
2823 development sites. Based on the gross square feet of land area, each tree credit earned can count
2824 toward the number of trees required, subject to limitations indicated below. If tree credits are used,
2825 the credits shall be shown in the calculations on the landscape plan. Single-family homes and duplexes
2826 are not eligible for the tree credit program provided by this subsection. In no event, shall the number
2827 of trees required in a buffer be reduced.
2828
- 2829 B. Credit for planting larger canopy trees. One tree credit shall be applied to the overall tree count for
2830 each two inches of increased caliper above the minimum planting size specified in this Chapter. In no
2831 event, however, shall the actual number of trees be less than one-half of the total number required.
2832
- 2833 C. Credit for preserving existing canopy trees. Existing canopy trees in good health and meeting the
2834 minimum standards provided in this Chapter that are preserved on a site, and that are properly
2835 protected prior to and during the course of development activities, may be used to meet the
2836 requirements of this section for the site where the existing trees are located. For purposes of this
2837 subsection, development activities include land clearing, construction, grading, or placement of fill.
2838 Canopy trees that exceed the minimum size required by Article 5, Section 15 are credited at the
2839 following ratios for existing canopy trees:
2840

TABLE 5.5.13.D: CREDIT FOR PRESERVING EXISTING CANOPY TREES
CREDITS

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1. 6" up to 12" caliper = credit for 2 trees
2. 12" up to 18" caliper = credit for 3 trees
3. 18" up to 24" caliper = credit for 4 trees
4. 24" or greater caliper = credit for 5 trees

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No credit shall be given to canopy trees on the Florida Exotic Pest Plant Council list of Category I or Category II invasive exotics.

- D. Credit for preserving existing palms. Existing palm trees in good health and having a minimum of ten feet of clear trunk that are preserved on a site and properly protected prior to and during the course of development activities, may be used to meet the requirements of this section for the site where the existing palm trees are located. This credit shall be available for palms preserved in place or transplanted within a site, using accepted horticultural procedures.

Section 5.5.16. Landscape maintenance.

- A. General maintenance required. The property owner shall maintain all landscaping in accordance with the approved landscape plan, if any, and with the standards contained in this section, including:
 - 1. Trees, palm trees, shrubs, and other vegetation shall be trimmed so as to not be an obstruction to pedestrian or vehicular traffic or traffic visibility;
 - 2. Trees, palm trees, shrubs, and tree bed(s) shall be kept free of refuse, debris, and disease;
 - 3. Nonliving materials shall be maintained in good condition at all times.; and
 - 4. Shrubs planted in non-residential and mixed-use developments shall grow and be maintained at all times according to the minimum size specified on the approved landscape plan or to a minimum height of 36 inches, if not specified on the approved landscape plan. Shrubs that do not meet the minimum height specified or the alternate minimum height of 36 inches shall be replaced with like kind species and be maintained at a height of 36 inches.

This requirement shall not preclude the placement of additional plant materials or other landscape features that comply with other requirements of these regulations.

- B. Compliance required. For any development for which a landscape plan was submitted, the city shall not issue a certificate of occupancy or certificate of completion until the landscape architect or other licensed professional authorized pursuant to F.S. Chapter 481, Part II, who prepared, signed, and sealed the plan certifies to the city that all elements of the landscape plan have been installed in accordance with the approved plan. Each development will be inspected by the City of Cape Coral within two years after the certificate of occupancy or certificate of completion is issued, and from time to time thereafter to ensure compliance with the applicable landscape standards and with the approved landscape plan, if any. Any dead or missing plant, or plant that appears to be dying or unable to sustain healthy future growth shall be replaced by one that conforms to the requirements of this section and approved landscape plan, if any. Failure to comply with this requirement shall constitute a violation of the City of Cape Coral Code of Ordinances, subject to any penalty imposed by law.

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C. Changes subsequent to landscape plan approval. The replacement of plants indicated on an approved landscape plan with plants of the same species, or the placement of hardscape features that comply with other requirements of these regulations shall not require the submission of an amended landscape plan. The substitution of plants indicated on an approved landscape plan with plants of an alternative species of the same size and plant category (canopy tree, accent tree, palm tree, shrub) shall not require the submission of an amended landscape plan, unless a specific species has been prescribed as a condition of approval by the Hearing Examiner or City Council; however, any such substitution shall meet all other landscape requirements, including the minimum separation distance between trees and overhead power lines, the Florida native plant percentage, the tree species mix, and species specific palm tree substitution requirements. Except as described above, after a landscape plan has been approved, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the landscape plan without first obtaining written approval of an amendment to the landscape plan. The approval of an amendment to a landscape plan does not constitute an amendment to the site plan. Modifications that require approval of an amended landscape plan include:

1. Replacement of any plant indicated on an approved landscape plan with a plant of a different species; or
2. The reduction of any quantity or size of plants below the size that was indicated on the most recently approved landscape plan.

The city may impose a reasonable fee for the review and approval of an application for an amendment to a landscape plan. An application for an amendment to a landscape plan shall be reviewed in accordance with the standards herein, unless the landscaped area is a legal nonconformity. An application for an amendment to a nonconforming landscaped area shall be reviewed in accordance with Article 5, Section 6.

D. Nonconforming landscaped areas.

1. Legal nonconforming landscaped areas established. All landscaped areas which were lawful prior to the adoption of this Code but which fail by reason of adoption of such amendment to comply therewith, are hereby declared to be nonconforming. Such nonconforming landscaped areas are hereby declared to be lawful and shall not be required to be altered to conform with such regulations as adopted by the City of Cape Coral; provided, however, that such nonconforming landscaped areas are restricted and subject to the requirements of this section.

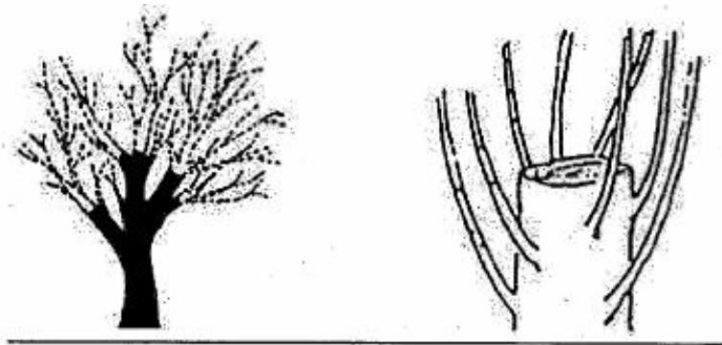
2. Requirements for nonconforming landscaped areas.

- a. For sites with an approved landscape plan, nonconforming landscaped areas, including buffers, shall be maintained in accordance with approved landscape plans, as modified by requirements of any approval for PUD, PDP, special exception, or variance, if any. If the minimum requirements for landscaping are reduced subsequent to the most recently approved landscape plan, the property owner may request approval of an amended landscape plan meeting the minimum requirements pursuant to Article 5, Section 6.

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- b. For single-family and duplex sites, nonconforming landscaped areas shall be maintained in accordance with landscape regulations in effect at the time of issuance of the original building permit for the primary structure.
 - c. For sites without an approved landscape plan, other than single-family and duplex sites, nonconforming landscaped areas shall be maintained in accordance with landscape regulations in effect at the time of the most recent site plan approval.
- E. Canopy tree pruning.
- 1. Except as otherwise provided herein, trees required by regulations in effect at the time of site development shall only be pruned to promote healthy, uniform, natural growth, to keep trees trimmed back from doors, windows, and public sidewalks or where necessary to promote health, safety, and welfare. Pruning shall be in accordance with "American National Standard for Tree Care Operations - Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices (Pruning) (A300, Part 1)" by the American National Standard Institute and "Best Management Practices: Tree Pruning" by the International Society of Arboriculture (ISA). Pruning of trees on any site over one acre should be supervised by a certified arborist. Pruning necessary to maintain public overhead utilities shall be in accordance with the National Electric Safety Code (NESC).
 - 2. Trees required by regulations in effect at the time of site development shall not be pruned so as to include topping of trees through removal of crown material or the central leader, or any other similar procedure to permanently limit growth to a reduced height or spread or that cause irreparable harm to the natural form of the tree, except where such procedures are necessary to maintain public overhead utilities. Severely pruned trees required by regulations in effect at the time of site development must be replaced by the property owner. Replacement trees must meet the tree size requirements of this Chapter. A tree's growth habit shall be considered in advance of conflicts that might arise (e.g., signs, power lines, sidewalks, buildings, and similar conflicts).



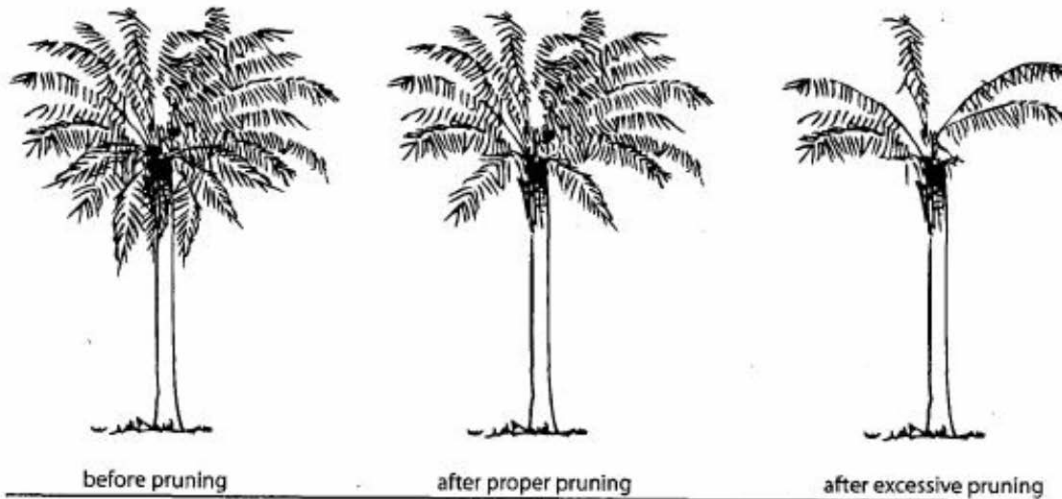
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Excessively pruned trees.

- 3. Palm maintenance and pruning. Palms shall only be pruned in such a manner that removal of fronds does not exceed a 9:00 to 3:00 pattern and no more than one-half of the fronds are

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2965 removed at a single time. This limitation shall not apply to flower stalks or fronds that are yellow
2966 or dead.
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Section 5.5.17. Planting in medians, cul-de-sacs, and roundabouts.

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2972 A. Permits.

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2974 1. Required. It shall be unlawful for any person to place any landscape material, including plant
2975 materials and hardscape materials other than mulch, in any median, cul-de-sac, or roundabout
2976 under the control of the city, without first obtaining a permit for such work from the City.
2977

2978 2. Application. An application for a permit shall be submitted on a form provided by the city and
2979 include all required information as specified in the permit application forms, including:

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2981 a. A general vicinity map showing the nearest intersecting streets;

2982
2983 b. The location of existing public and private utilities, including overhead power lines and
2984 drainage facilities within twenty (20) feet of the proposed landscaping;

2985
2986 c. A planting plan showing all pertinent dimensions, the location of existing plant materials with
2987 indication if they are to be removed, the location of proposed plant materials indicating the
2988 size and species, the location of existing or proposed hardscape materials, and the proposed
2989 irrigation plan and source of water;

2990
2991 d. A description of the proposed monthly maintenance schedule and the primary and alternate
2992 contact information for the parties responsible for maintenance;

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2994 e. Any additional information reasonably required by the City because of unique circumstances
2995 of the project; and

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2997 f. A non-refundable application fee as established by City Council.

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- B. Median design. Landscaping in medians shall be in accordance with the City of Cape Coral Engineering Design Standards.

- C. Cul-de-sac or roundabout design. Landscaping in cul-de-sacs or roundabouts shall utilize the plants and materials identified below. Such plantings shall be in accordance with the City of Cape Coral Engineering Design Standards.
 - 1. Trees. Trees shall be of at least ten-gallon size at the time of planting. The following trees are permitted: Mahogany, Wild Tamarind, Yellow or Pink Tabebuia, Buttonwood, Crepe Myrtle, Gumbo Limbo, Southern Magnolia, Paradise tree, Pigeon Plum, Sago Palm, or Pygmy Date Palm. Other types of trees may be permitted providing the criteria established in this section are met. The prohibited vegetation standards of this Chapter shall apply in cul-de-sacs and roundabouts.

 - 2. Shrubs. Shrubs to be planted should be durable in harsh conditions with slow, unobtrusive growth habits. All shrubs shall be of at least three-gallon size at the time of planting. The following shrubs are recommended for planting: Carissa, Cocoplum, Yaupon Holly, Myrsine, Necklace Pod, Podocarpus, and Wax Myrtle. Other types of shrubs may be permitted providing the criteria established in this section are met.

 - 3. Other vegetation. The planting of flowers or any vegetation (other than approved trees or shrubs) by any private person or entity on cul-de-sac or roundabout owned by the city is prohibited. In addition, cul-de-sacs or roundabouts shall be left in sod. A small bed immediately surrounding a tree or shrub may be mulched.

- D. Prohibited vegetation. The prohibited vegetation standards of section 9 of this article shall apply in medians.

- E. Review criteria. In determining whether a permit will be issued, the city shall consider factors that include, but are not limited to, the following:
 - 1. Relationship to traffic and pedestrian safety;

 - 2. Location of existing and proposed public utilities, power lines, and other right-of-way improvements;

 - 3. Effect on surface waters and drainage patterns;

 - 4. Aesthetic effect of the proposed landscaping, including whether the resultant theme would be consistent throughout the specific median, and whether the proposed landscaping would coordinate with the landscape theme, if any, established in the vicinity;

 - 5. Type, size, and location of any extant plant materials and hardscape materials, if any;

 - 6. Type, size, and location of proposed plant materials and hardscape materials on the median;

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- 3044 7. Method of removal of existing plant materials and hardscape materials;
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3046 8. Adequacy of proposed irrigation, its expense to the city, and availability of water supply;
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3048 9. The city's ability to maintain the landscaping in the event that the permittee fails to do so including
3049 economic ability, manpower, and location of the median, and
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3051 10. Potential sight obstructions and compliance with all standards and regulations regarding sight
3052 distances and clear zones.
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3054 F. Approval.
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3056 1. In its approval of any permit request, the city may request modifications, which may include:
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3058 a. The planting plan, including the design to ensure integration with the aesthetic character of
3059 the neighborhood, the requirement that the entire median be included in the design, as well
3060 as to plant sizes, species, location, and nature placement of hardscape materials;
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3062 b. Plant installation or removal methods or specifications;
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3064 c. Regulation of the commencement and completion date, work hours, or phasing of installation
3065 or removal;
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3067 d. The proposed maintenance schedule;
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3069 e. Requirement of a financial instrument to ensure maintenance or removal of the landscaping;
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3071 f. Requirement that all or part of the landscaping be installed and maintained by a licensed
3072 landscape contractor or certified arborist;
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3074 g. Requirement that temporary traffic control measures be implemented by a barricade
3075 company with certification by the American Traffic Safety Services Association (ATSSA) or the
3076 International Municipal Signal Association (IMSA);
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3078 h. Requirement that curbing be installed;
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3080 i. Requirement that erosion control measures be implemented; and
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3082 j. Submission of a hold harmless agreement acceptable to the city.
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3084 2. The permittee shall be responsible for compliance with the permit along with the maintenance of
3085 the landscaping. The limitation on the time for installing landscape materials shall not apply to
3086 replacement of materials as part of maintenance. The maintenance obligations shall remain in full
3087 force and effect for the life of the landscaping.
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- 3089 3. Approval of a permit to install landscape materials shall not obviate the requirement to obtain all
3090 other necessary permits, including permits for irrigation and signs.
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- 3092 G. Changes subsequent to approval. After a planting plan has been approved, it shall be unlawful to
3093 change, modify, alter, or otherwise deviate from the terms of the planting plan without first obtaining
3094 written approval of an amendment to the planting plan. Modifications that require approval of an
3095 amended landscape plan include the following:
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- 3097 1. Replacement of any plant indicated on an approved planting plan with a plant of a different
3098 species; or
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- 3100 2. Modification of the location of any plants or other landscape materials.
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- 3102 The city may impose a reasonable fee for the review and approval of an application for an
3103 amendment to a planting plan. An application for an amendment shall be reviewed in accordance
3104 with the standards herein. The replacement of plants indicated on an approved landscape plan
3105 with plants of the same species shall not require the submission of an amended landscape plan.
3106
- 3107 H. Permit expiration. A permit for installing landscape materials in any median under the control of the
3108 city shall be valid for a one-year period from the date of issuance, except as otherwise provided within
3109 the permit approval. The permittee is solely responsible for submitting an application for renewal of
3110 the. In determining whether the permit should be renewed, the city shall consider all of the factors
3111 listed in subsection D. above, as well as the condition in which any materials planted pursuant to the
3112 permit have been maintained.
3113
- 3114 I. Maintenance. Once any landscape materials are installed in a median, the materials are the property
3115 of the city. Except when the city determines that it is in its best interest to maintain portions of
3116 landscaping in medians permitted in accordance with this subsection, the permittee shall be
3117 responsible for maintaining any and all landscaping permitted by this subsection in accordance with
3118 Section 16 of this chapter. Should any plant material or other landscape material or portion thereof
3119 become a safety hazard, unsightly, or die or become diseased, or if it is installed or maintained in a
3120 manner inconsistent with the permitting requirements herein, the city shall have the option of
3121 performing maintenance, replacing, or removing it. The City will determine compliance with this
3122 subsection.
3123
- 3124 J. Removal. Any landscape materials planted or installed without the express written permission of the
3125 city shall be subject to removal by the city in its sole discretion. Except for the City and persons with
3126 a permit or other written authorization from the City, no person shall remove landscape materials
3127 from a median.
3128
- 3129 1. The authorization in this section for the removal of landscaping in medians shall be construed as
3130 supplementary to any other means of enforcement available to the city and shall not be construed
3131 so as to negate the authority of the Code Compliance Special Magistrate to hear and adjudicate
3132 appropriate cases.
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3134 2. The city may also, in its sole discretion, remove any landscape materials placed in any median
3135 under the city's control, for utility maintenance, safety, or any other reason. The City is not
3136 required to replace any landscaping removed pursuant to this section.
3137

3138 K. Revocation. If any requirements of the approval are not satisfied, the city may revoke or stop work on
3139 any permit issued pursuant to this subsection.
3140

3141 **Section 5.5.18. Lateral right-of-way planting.**
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3143 A. No permit required- Registration required. It shall be unlawful to install any trees or shrubs in the city-
3144 owned lateral right-of-way without first obtaining a registration certificate from the city.
3145

3146 B. Refer to Section 5.1.9 for landscaping that may be installed within the lateral right-of-way without a
3147 permit or registration certificate.
3148

3149 C. Placement of planting material. In the South Cape Downtown District, in order to provide a cohesive
3150 urban streetscape, applicants may enter into an agreement with the city for placement of planting
3151 material in the lateral right-of-way. In all other districts, the planting of trees, palm trees, and shrubs,
3152 and the placement of the tree bed(s) shall be allowed in the city-owned lateral right-of-way subject
3153 to the following restrictions:
3154

3155 1. The property owner must call the Sunshine 811 notification service to have all underground
3156 utilities located and marked on the ground prior to installation of any landscape material. All
3157 excavation on public property, rights-of-way, or dedicated easements shall comply with the
3158 requirements of F.S. 556. **UNDERGROUND FACILITY DAMAGE PREVENTION AND SAFETY.**
3159

3160 2. Where potable water, irrigation or sanitary sewer force mains are located within the right of
3161 way, the property owner must contact the Utility Department to confirm the location of
3162 proposed canopy trees and palm trees.
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3164 3. No canopy tree shall be planted within 10 feet of existing or proposed drainage inlet or potable
3165 water, irrigation and sanitary sewer force mains.
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3167 4. No palm tree with a mature diameter of 8 inches or greater shall be planted within 5 feet of
3168 existing or proposed drainage inlet or potable water, irrigation and sanitary sewer force mains
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3170 5. Planting near overhead utility infrastructure shall be in accordance with the requirements of
3171 Section 5.5.7 of this article;
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3173 6. One or more trees may be immediately surrounded by a bed consisting of landscape edging
3174 materials, bedding plants or groundcover, and mulch or decorative rock so long as the size of the
3175 bed is reasonably related to the size and number of trees contained therein. Groundcover or
3176 annual bedding plants shall be permitted within the tree bed. Unless otherwise permitted, no
3177 other landscape edging material, concrete curbing, bedding plant or groundcover, mulch, or
3178 decorative rock shall be allowed in the city-owned lateral right-of-way;
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7. The property owner abutting the portion of the lateral right-of-way in which the plantings and the tree bed(s) are placed shall be responsible for any and all costs incurred by the city for damage sustained to any drainage system or underground utility facilities as a result of said plantings or placement of the tree bed(s), and shall indemnify and hold the city, its officers, employees, and agents, harmless from any and all claims for injuries and damages to persons and property, both real and personal resulting from said plantings or placement of the tree bed(s);
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8. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch, or decorative rock shall be placed in the city-owned lateral right-of-way within five feet of the roadway. Canopy trees shall not be planted within seven feet of any roadway, sidewalk, or underground utility unless an acceptable root barrier material, installed in accordance with this Chapter.
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9. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch, or decorative rock shall be placed in the city-owned lateral right-of-way:
- i. Within five feet of either side property boundaries, as measured perpendicular from the side property line;
 - ii. Within three feet of the bottom on the swale in either direction;
 - iii. Within three feet of a public sidewalk; or
 - iv. So as to be an obstruction to pedestrian or vehicular traffic or traffic visibility and each shall be maintained accordingly.
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- D. Maintenance. Once any landscape materials are installed in a lateral right-of-way, the materials are the property of the city. The person or entity who owns the property abutting a portion of the lateral right-of-way along a city street in which the trees, palm trees, shrubs, landscape edging material, concrete curbing, bedding plants, or groundcover, mulch, or decorative rock have been placed shall be responsible for the following:
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- 1. Maintaining all plantings and tree bed(s) in good condition so as to present a healthy, neat, and orderly appearance;
 - 2. Trimming such trees, palm trees, shrubs, and tree bed(s) so as to not be an obstruction to pedestrian or vehicular traffic or traffic visibility; and
 - 3. Keeping such trees, palm trees, shrubs, and tree bed(s) free of refuse, debris, and disease.
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- Failure to maintain such trees, palm trees, shrubs, and tree bed(s) in accordance with this provision shall constitute a violation of this section and shall be grounds for removal by the city of the trees, palm trees, shrubs, and tree bed(s) in the right-of-way.
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- E. Removal.
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- 1. The authorization in this section for the removal of trees, palm trees, shrubs, and tree bed(s) shall be construed as supplementary to any other means of enforcement available to the city and shall not be construed so as to negate the authority of the Code Compliance Special Magistrate to hear and adjudicate appropriate cases.

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2. The city may also, in its sole discretion, remove any trees, palm trees, shrubs, and tree bed(s) placed in a city-owned lateral right-of-way for utility maintenance, safety, or any other reasonable cause. Except for the city, persons with written authorization from the city, and the property owner abutting the portion of the lateral right-of-way in which landscape materials have been placed, no person shall remove landscape materials from a lateral right-of-way.
 3. All expenses incurred by the city for removal trees, palm trees, shrubs, and tree bed(s), for any reason, shall be the responsibility of the property owner.
 4. If, for any reason, such trees, palm trees, shrubs, and tree bed(s) are removed, the adjoining owner shall be responsible for returning the right-of-way to its original condition prior to the placement of the plantings and tree bed(s) and any expenses related thereto regardless of whether the removal of the trees, palm trees, shrubs, and tree bed(s) was performed by the property owner or the city pursuant to this section.

3242 **Section 5.5.20. Deviations.**

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- A. Deviations of up to 10% from the requirements of this section may be approved by the Director and as further provided herein) provided that the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of this section and where either of the following applies:
 1. Conditions exist that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship; or
 2. Literal conformity with the regulations would inhibit innovation or creativity in design.
 - B. In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Director shall consider include the following: site constraints such as shape, topography, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, and the effect the requested deviation would have on the community appearance. Additionally, the Director shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city.
 - C. In determining whether a particular deviation request should be approved because literal conformity with the regulations would inhibit innovation or creativity in design, the Director may approve the request for deviation(s) if the applicant demonstrates that the design of the landscaping for which one or more deviations is sought is unique and innovative and, further, that the approval of the deviation(s) would enhance such unique and innovative design. Additionally, the Director shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city. For purposes of this section, indicia of unique and innovative design may include, but are not limited to, the following:

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1. Landscape details that are unique or that are exceptional in quality by virtue of artistic composition, quality of materials, dimensional attributes, or any combination thereof;
 2. Plant massing that evokes exceptional expression through use of angularity, curvature, or other means;
 3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
 4. Other details or forms that preclude visual monotony and are pleasing in aesthetic character.
- D. Requests for deviations and the reasons therefore shall be set forth by the applicant in the application for deviation and shall be accompanied by documentation including, a narrative that clearly defines the section(s) of the regulations of the requested deviation, a narrative explanation as to the reason for the requested deviation and why it should be approved, sample detail drawings, elevations, and perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the benefit, or at least not to the detriment, of the public interest.
- E. For deviations to avoid unnecessary or undue hardship, the Director subject to these standards and criteria, shall approve only the minimum deviation from the provisions of this section. For deviations to avoid the inhibition of innovation or creativity in design, the Director shall approve deviations necessary to enhance the unique and innovative design. The Director may impose reasonable conditions of approval in conformity with this section. Violation of such conditions and safeguards, when made a part of the terms under which a deviation is granted, shall be deemed a violation of this section and shall be enforceable not only by revocation of the deviation, but also by all other remedies available to the city, including all code enforcement procedures.

3299 **CHAPTER 6. LIGHTING.**

3300
3301 **Section. 5.6.1. Purpose and applicability.**

3302
3303 The purpose and intent of this Section is to create outdoor lighting standards that promote the health,
3304 safety, and welfare of the residents and decrease the impacts of ambient lighting on the natural sky by
3305 establishing maximum intensities of lighting and controlling glare from lighting fixtures. The provisions
3306 of this article shall apply to all permanent outdoor lighting from any light source in nonresidential
3307 development.

3308
3309 **Section. 5.6.2. Outdoor lighting standards.**

- 3310
3311 A. Outdoor lighting fixtures. All outdoor lighting fixtures shall be installed in such a manner that the
3312 source of each individual light is shielded, positioned, and maintained so as not to be visible off the
3313 premises.
3314
3315 B. Light shielding for parking lot illumination. All parking lot lighting shall have no light emitted above
3316 90 degrees.
3317

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- 3318 C. Outdoor lighting fixtures adjacent to residential. Any outdoor lighting fixture providing light to any
3319 parcel adjacent to a residentially zoned parcel, whether adjoining or not, shall emit no more than
3320 0.1 foot-candles of light, as measured from the property line of the adjacent residential parcel, using
3321 a standard light meter, the cell of which is directed towards the source of the light.
3322
3323 D. All areas designed for use after daylight hours shall be adequately lit, in accordance with Table 5.6.2.
3324 below.
3325

Table 5.6.2. Lighting levels for commercial and industrial developments

Outdoor Lighting Area	Lighting Level minimum - maximum (foot-candles)
Entrance of commercial or industrial building	1 - 5
Sidewalk or walkway from parking area to entrance	.5 - 2
Parking lot	.5 - 3
Gas station canopy	10 - 15
Loading and unloading areas	15 - 20

- 3328
3329 E. Illumination ratio. Luminaire fixtures in parking lots shall be arranged in order to provide uniform
3330 illumination throughout the parking lot area of not more than a 4:1 ratio of average to minimum
3331 illumination, and not more than 12:1 ratio of maximum to minimum illumination.
3332
3333 F. Automatic Switching Requirements. Controls shall be provided that automatically extinguish all
3334 outdoor lighting when sufficient daylight is available using a control device or system such as a
3335 photoelectric switch, astronomic time switch, or equivalent functions from a programmable lighting
3336 controller, building automation system, or lighting energy management system, all with battery or
3337 similar backup power or device.
3338
3339 B. Modifications. Additions, modifications, or replacement of more than 25 percent of outdoor lighting
3340 fixtures existing as of the effective date of this ordinance shall require the submission of a complete
3341 inventory and photometric plan detailing all existing and any proposed new outdoor lighting. Any
3342 new lighting shall meet the requirements of this ordinance.
3343
3344 C. Exempt lighting. The provisions above shall not apply to streetlights, single-family residences,
3345 duplexes, or governmental facilities.
3346

CHAPTER 7. SCREENING

This Chapter shall not apply to single-family detached or duplex residential development.

Section. 5.7.1. Screening of rooftop equipment.

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3353 All rooftop equipment shall be screened from view from the right-of-way or adjacent properties by the
3354 use of a parapet wall or other architectural feature to screen the equipment or shall be set back
3355 adequately from the building edge to conceal the equipment from adjacent properties at ground level.
3356

3357 **Section. 5.7.2. Screening of storage areas.**
3358

- 3359 A. All permitted storage areas shall be screened from adjacent properties and the right-of-way.
3360 Permissible screening materials include:
- 3361
- 3362 B. A six-foot high wall of concrete or similar approved material, Section. 5.2.7 on walls;
3363
- 3364 C. A six-foot high opaque fence of an approved material, Section. 5.2.7 fences; or
3365
- 3366 D. A vegetative buffer, consisting of two staggered rows of shrubs a minimum of three feet tall at
3367 planting. The buffer shall create a dense barrier, at 80% opacity, within two years.
3368

3369 **Section. 5.7.3. Air conditioning units and mechanical equipment.**
3370

- 3371 A. All mechanical equipment at ground level shall be screened from adjacent property and the right-of-
3372 way. When possible, sound deadening materials shall be used. Permissible screening materials
3373 include:
- 3374
- 3375 1. A wall or opaque fence of adequate height to screen the view of the equipment, see Section. 5.2.7
3376 for approved materials.
3377
- 3378 2. A vegetative buffer, which meets the specifications in Section 5.6 for a four-foot tall buffer.
3379

3380 **Section. 5.7.4. Permanently installed stand-by generators.**
3381

3382 Permanently installed stand-by generators serving all properties other than single-family and duplex
3383 residences where life and safety does not depend on the performance of the system.
3384

- 3385 A. The generator may only be used in emergency situations when there is a power outage.
3386
- 3387 B. Repairs and testing may only occur during daylight hours a maximum of once per week.
3388
- 3389 C. Installation of a generator shall comply with the following restrictions:
3390
- 3391 1. The generator shall not encroach more than three feet into any required setback, and in no case
3392 shall be any closer than two and one-half feet from any property line. The generator shall not be
3393 installed in an easement.
3394
- 3395 2. The generator shall be screened from public view by:
- 3396
- 3397 a. A vegetative buffer which meets the specifications in Section 5.6 for a five-foot high hedge;
3398 or

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- 3399
- 3400 b. A wall or opaque fence, of an adequate height to screen the equipment, which meets the
- 3401 specifications of Section 5.2.7.
- 3402
- 3403 3. Permanent signs shall be placed at the electrical service indicating the type and location of the
- 3404 generator.
- 3405

3406 **CHAPTER 8. NON-RESIDENTIAL DESIGN STANDARDS.**

3407

3408 **Section 5.8.1. Purpose and Intent.**

3409

3410 The appearance of non-residential and mixed-use development affects the visual image and

3411 attractiveness of the City of Cape Coral. Utilitarian design and developments with minimal architectural

3412 features detract from the city's image and character. The purpose and intent of the non-residential design

3413 standards is to promote the City as an attractive destination for tourists and residents, and to support

3414 economic vitality while protecting the public health, safety, and welfare. These regulations intend to:

3415

- 3416 A. Enhance the visual image and attractiveness of the City;
- 3417
- 3418 B. Establish reasonable standards that offer flexible and diverse design options;
- 3419
- 3420 C. Ensure development in Cape Coral is of consistent high quality and character; and
- 3421
- 3422 D. Regulate site layout and architectural features to ensure aesthetic and visual interest.
- 3423

3424 **Section 5.8.2. Applicability.**

3425

- 3426 A. The standards of this section shall apply to all non-residential and mixed-use development for which
- 3427 application for site plan approval, or a building permit is made.
- 3428
- 3429 B. These design standards shall apply to existing development if a building's gross floor area is increased
- 3430 by 50% or more.
- 3431
- 3432 C. Development on Industrial zoned sites shall be exempt from these standards.
- 3433
- 3434 D. The design standards of this section do not apply when the City Council has established specific design
- 3435 standards for a unique area of the city unless the specific design standards otherwise expressly state
- 3436 their applicability.
- 3437

3438 **Section 5.8.3. Exemptions.**

3439

3440 The following types of buildings shall be exempt from the non-residential design standards.

3441

- 3442 A. Any building that has received a temporary use permit.
- 3443
- 3444 B. Any accessory structure.

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- 3445
3446 C. Bona fide agricultural buildings in the Agricultural and RE Districts such as barns and stables.
3447
3448 D. Guard houses.
3449
3450 E. Government facilities that are screened or not visible from a public street.
3451
3452 F. Model homes.
3453
3454 G. Municipal pump station buildings.
3455
3456 H. Neighborhood storage and mini-storage buildings provided the buildings are enclosed with a wall with
3457 a minimum height of six feet.
3458
3459 I. Pavilions, carports, gas canopies, and similar buildings that have support posts or columns but no sides
3460 except for roof treatments as required in Section 5.8.8.
3461
3462 J. Buildings similar to those listed above as determined by the Director.
3463

3464 **Section 5.8.4. Conflicts.**
3465

3466 If any of the non-residential and mixed-use design standards of this section conflict with any other
3467 provision of the City of Cape Coral Code of Ordinances or Land Development Code, the provision that
3468 establishes the more specific standard or architectural theme governs. If neither conflicting provision
3469 establishes a specific standard or architectural theme, then the more restrictive provision governs unless
3470 otherwise expressly provided.
3471

3472 **Section 5.8.5. Appearance, Building Mass, and Design Treatments.**
3473

- 3474 A. Consistency Within a Development. Except for buildings on outparcels that contain only one unit,
3475 designed and constructed to be occupied by a single end user, regardless of the number of business
3476 operations conducted within the single unit, buildings within a development shall be designed with
3477 color schemes, building materials, finishes, roof types, roof lines, and exterior roof finishing consistent
3478 with or that resemble those of the principal building or structure on the main parcel(s).
3479
3480 B. Consistency and Integrity of Building Components. All portions of any exterior side of a building,
3481 extending from finished grade to the top of the parapet wall or eaves, extending the entire width of
3482 the side of a building, must be designed with consistent architectural style, detail and trim features.
3483 All architectural features other than parapet walls, including towers or cupolas, shall be designed so
3484 as to have an equivalent character from any ground-level angle from which they can be viewed.
3485
3486 C. Glazing.
3487
3488 1. For buildings abutting and facing a public street, transparent windows, doors, or any combination
3489 thereof, shall cover at least 25% of the first story building wall area from grade to a height of 10
3490 feet.

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2. For buildings with walls abutting but not facing a public street, transparent windows, doors, or any combination thereof, shall cover at least 15% of the first story building wall area from grade to a height of 10 feet
3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking areas, transparent windows, doors, or any combination thereof, shall cover at least 25% of the first story building wall area from grade to a height of 10 feet.
- 3500 D. Sides of a building. For buildings located on outparcels, all exterior sides of a building shall comply
3501 with this section. Additionally, except for a side of a building built flush with a side lot line, a side of a
3502 building that faces a rear lot line of an abutting property, and a side of a building that faces a property
3503 line that abuts an alley, all sides of a building shall comply with the standards of this section.
3504
- 3505 1. All exterior sides of a building subject to this subsection shall include a repeating or varying
3506 pattern and shall comply with both design elements listed below. At least one of the three design
3507 elements shall repeat horizontally. All elements shall repeat or alternate at intervals of no more
3508 than 50 feet, either horizontally or vertically.
3509
- 3510 a. Each wall shall provide visual differentiation of wall surfaces through variations in a minimum
3511 of one of the following:
3512 i. Building materials;
3513 ii. Finish textures; or
3514 iii. Color.
3515
- 3516 b. Each wall shall provide a minimum of two of the following architectural features:
3517 i. Columns;
3518 ii. Pilasters;
3519 iii. Awnings;
3520 iv. Canopies;
3521 v. Reveals (if provided shall have a minimum depth of ½ inch);
3522 vi. Corbels;
3523 vii. Quoins ;
3524 viii. Keystones;
3525 ix. Cornices (if provided shall have a minimum height of four inches); or
3526 x. Other features as determined by the DCD Director that provide articulation or reduce
3527 building massing.
3528
- 3529 2. All exterior sides of a building shall provide a minimum number of design elements among
3530 elements a. thru r. below in accordance with the gross square footage of a building, as provided
3531 herein. Required design elements may be located on an exterior wall of a building, on the roof of
3532 the building, or on both the wall(s) and the roof of a building, as applicable. If located on a roof,
3533 the design element shall be located on a portion of the roof that faces in the same direction as
3534 the exterior wall. It is not the intent of this section, however, to require the design elements to
3535 be on both the exterior wall(s) and the roof.
3536

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Building Gross Floor Area (sq. ft.)	Minimum number of Design Elements Required
10,000 sq. ft. or less	3
10,001 to 49,999 sq. ft.	4
50,000 sq. ft. or greater	5

- 3537
- 3538 a. Architectural features and detailing that create a frame and definition to the primary public
- 3539 entrance;
- 3540
- 3541 b. One or more canopies or awnings that extend a total length of at least 30% of the length of
- 3542 any side of a building subject to this subsection;
- 3543
- 3544 c. One or more attached porticos;
- 3545
- 3546 d. Peaked or arched roof form;
- 3547
- 3548 e. Overhanging eaves a minimum of 18 inches wide on all portions of a building with a pitched
- 3549 roof;
- 3550
- 3551 f. Arcade;
- 3552
- 3553 g. Colonnade;
- 3554
- 3555 h. Arches or arched forms other than roof forms or an arcade;
- 3556
- 3557 i. Windows or glazing that exceed the minimum glazing requirements of Subsection 5.8.5.C. by
- 3558 a minimum of 10% for a wall;
- 3559
- 3560 j. Ornamental or structural details, including, banding or moldings used throughout the exterior
- 3561 building walls that add decoration and detail to a building roofline, building openings, or
- 3562 windows;
- 3563
- 3564 k. Two or more ornamental or structural details that are horizontally continuous (except for
- 3565 interruptions for doors and windows), which may include belt courses or any type of three-
- 3566 dimensional molding, banding, projections, recesses, or niches that help to define a base,
- 3567 body, and cap to the proposed building;
- 3568
- 3569 l. A tower such as a clock tower or bell tower;
- 3570
- 3571 m. A cupola;
- 3572
- 3573 n. Sculptured artwork (excluding corporate logos or advertising);
- 3574
- 3575 o. Vertical articulation of walls, including pilasters, columns, or other relief with maximum
- 3576 separation of one third of the wall on which they are located, not to exceed a separation of
- 3577 100 feet;
- 3578

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- 3579 p. Planter boxes that are integrated into the building architecture or wing walls that incorporate
3580 landscaped areas or places for sitting; or
3581
- 3582 q. Curved wall containing an uninterrupted curve along at least 10% of the length of any side of
3583 a building subject to this subsection.
3584
- 3585 r. One or more vegetated trellises that occupy a minimum of 25% of the area of a single wall.
3586
- 3587 3. For buildings with a gross floor area of greater than 50,000 square feet, no exterior wall shall
3588 exceed 100 linear feet in a horizontal direction within a single, continuous wall plane, nor shall
3589 any single, continuous wall plane constitute more than 60% of the building's total length. A wall
3590 shall be deemed to be in a single, continuous wall plane unless it is offset (recessed or projected)
3591 by at least 24 inches from any adjacent wall plane or contains a pilaster that projects at least 36
3592 inches from the wall.
3593

3594 **Section 5.8.6. Wall Height Transition.**
3595

- 3596 A. Buildings that are more than twice the height of the height of extant buildings on abutting property
3597 shall incorporate one or more transitional height elements to segue the height of the new building to
3598 the height of the closest existing building. The transitional height element shall be incorporated on
3599 the new building at the approximate cornice or roof line of the nearest existing building, if any. Where
3600 there is no extant building on adjacent property, the requirements of this sub-section will not apply.
3601 Where no single building is "nearest" to the new building, but instead two or more buildings are
3602 located an equidistance from the new building, the property owner may select the approximate
3603 cornice or roof line of any of such equidistant buildings at which to incorporate the transitional height
3604 element on the new building.
3605
- 3606 B. Transitional height elements may include:
3607
- 3608 1. Cornices or other decorative elements that run the length and width of the building and project
3609 a minimum of six inches from the wall;
3610
- 3611 2. Upper story setbacks and offsets at the approximate cornice or roof line of the nearest existing
3612 building as provided above;
3613
- 3614 3. Variations in roof planes.
3615

3616 **Section 5.8.7. Building Materials.**
3617

- 3618 Only the following finish materials for exterior walls are permitted. All other finish materials are
3619 prohibited.
3620
- 3621 A. Concrete block with stucco finish (CBS), synthetic stucco (an exterior cladding system with a stucco-
3622 like outer finish applied over insulating boards or composite materials), or other exterior coating that
3623 is the visual equivalent of stucco. Non-textured concrete block with visible mortar joints, even if
3624 painted, is not an acceptable finished material.

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- 3625
- 3626 B. Textured or ribbed concrete block, e.g. "split-face block".
- 3627
- 3628 C. Reinforced concrete of any finish.
- 3629
- 3630 D. Glass or other glazing, whether transparent, translucent, or applied as a veneer. For purposes of this
- 3631 subsection, glazing consists of glass or any material that resembles glass including, but not limited to,
- 3632 Plexiglass or polycarbonate.
- 3633
- 3634 E. Stone or brick, including simulated stone or brick.
- 3635
- 3636 F. Wood, other than plywood or T1-11 type paneling, if termite-resistant species, pressure-treated,
- 3637 painted, or stained.
- 3638
- 3639 G. Fiber-reinforced cement panels or boards.
- 3640
- 3641 H. Tile.
- 3642
- 3643 I. Architectural metal panels, provided that corrugated metal panels shall not exceed 30% of the surface
- 3644 of any wall.
- 3645
- 3646 J. Vinyl siding, provided that vinyl siding shall not exceed 30% of the surface of any wall.
- 3647
- 3648 K. Cargo or shipping containers, provided that any exterior wall of the container is completely sheathed
- 3649 with one of more of the allowable materials listed in this subsection.
- 3650

3651 **Section 5.8.8. Roofs.**

3652

- 3653 A. All non-residential and mixed-use buildings shall have variations in rooflines and roof features that
- 3654 are consistent with the building's mass and scale. In addition, roofs shall include features from at least
- 3655 two of the following five categories below.
- 3656
- 3657 1. Parapet wall provided the parapet extends completely around the building on all sides. However,
- 3658 this requirement shall not prohibit the substitution of a pitched roof in lieu of a parapet for part
- 3659 of a building.
- 3660
- 3661 2. A three-dimensional cornice treatment, a minimum of four inches high (not applicable along any
- 3662 portion of a wall that is built flush to the side lot line). Flashing at the top of a parapet shall not
- 3663 qualify as a cornice. Cornices shall return a minimum of eight feet around corners that transition
- 3664 from a building wall that requires a cornice to a building wall that does not require a cornice.
- 3665
- 3666 3. Varied roof lines with different roof heights and or separate or distinct roof segments that fall at
- 3667 different horizontal planes above the cornice line;
- 3668

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- 3669 4. Overhanging eaves that extend at least 18 inches beyond the supporting walls, with a minimum
3670 fascia of six inches in height (not applicable along any portion of a wall that is built flush to the
3671 side lot line);
3672
- 3673 5. Vertical variation in the roof line with a minimum change in elevation of two feet.
3674
- 3675 B. Pitched roofs such as gable, hip, shed or mansard roofs shall be clad with highly durable materials such
3676 as standing seam metal, slate, ceramic, or fireproof composite tiles. Fiberglass and asphalt shingles
3677 are prohibited except for dimensional grade or better.
3678
- 3679 1. Allowed slope. Pitched roofs shall have a minimum slope of three feet vertical rise for every 12
3680 feet of horizontal run. The maximum slope of a pitched roof shall not exceed a one-foot vertical
3681 rise for every one foot of horizontal run.
3682
- 3683 C. Roofs covering pavilions, carports, gas canopies, and similar structures with support posts or columns
3684 but no sides. Buildings with roofs that lack walls, whether free-standing or attached to another
3685 building, shall have a minimum slope of three feet vertical rise for every 12 feet of horizontal run.
3686 Unless a roof with an alternative design is approved by the DCD Director, all roofs are required to
3687 possess a pitched roof with a minimum slope of three feet vertical rise for every 12 feet of horizontal
3688 run. The DCD Director shall consider the following two criteria in determining whether to approve a
3689 roof with an alternative design:
3690
- 3691 1. Whether the design of the roof evokes exceptional expression through the use of angularity,
3692 curvature, or other means; or
3693
- 3694 2. Whether the design of the roof precludes visual monotony and enhances the aesthetic character.
3695
- 3696 Flat and parapet roofs are prohibited for buildings covered by this subsection.
3697

Section 5.8.9. Building Design Standards in the SC District.

- 3698
- 3699
- 3700 A. All buildings, whether residential, nonresidential or compound use, shall conform to the design
3701 standards provided herein., except as superseded by the following requirements.
3702
- 3703 B. Public entrances. Public entrances shall be provided as follows:
3704
- 3705 1. Any building facade that faces a street (excluding alleys) shall provide a public entrance oriented
3706 toward such street. In the case of a corner lot where more than one building facade faces a street,
3707 a corner entrance may serve to meet the requirements for the two streets that intersect and
3708 create the corner. All public entrances shall have convenient pedestrian access providing a direct
3709 connection from the street to the entrance via a walkway a minimum of four feet in width and
3710 not traversing any portion of an off-street parking area. In the event the City determines that this
3711 provision cannot be met due to site constraints, such walkway may traverse the off-street parking
3712 area but shall be clearly delineated by a change in paving material, pavement markings, or similar
3713 treatment.
3714

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- 3715 2. Any building facade that faces a dedicated city parking area shall provide a public entrance
3716 oriented toward such dedicated city parking area with convenient pedestrian access providing a
3717 direct connection via a walkway a minimum of four feet in width.
3718
- 3719 3. It is not the intent of these provisions to require more than two public entrances to any use
3720 intended to be occupied by a single tenant. In the event that the provisions above cumulatively
3721 require more than two public entrances, then the requirements may be reduced such that two
3722 public entrances shall be required. In determining the orientation of such public entrances.
3723 Parkway street designations and dedicated city parking areas shall have priority.
3724
- 3725 C. Transparency of building walls. Except for parking structures, building walls shall contain transparent
3726 windows, doors, or any combination thereof, meeting the following standards:
3727
- 3728 1. For lots abutting primary or secondary street designations, transparent windows, doors, or any
3729 combination thereof, shall cover at least 50% of the first story building wall area that faces the
3730 primary or secondary street designation. Above the first story, non-residential uses, except hotels,
3731 shall provide transparent windows, doors, or any combination thereof, covering at least 25% of
3732 the entire building wall area; residential and hotel uses shall provide at least 15%.
3733
- 3734 2. For lots abutting local street designations, non-residential uses, except hotels, shall provide
3735 transparent windows, doors, or any combination thereof, covering at least 25% of the entire
3736 building wall area that faces the secondary or tertiary street designations; residential and hotel
3737 uses shall provide at least 15%.
3738
- 3739 3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking
3740 areas, non-residential uses, except hotels, shall provide transparent windows, doors, or any
3741 combination thereof, covering at least 25% of the entire building wall area that faces the
3742 dedicated city parking area; residential and hotel uses shall provide at least 15%.
3743
- 3744 4. Non-residential use building walls facing navigable waterways shall provide transparent windows,
3745 doors, or any combination thereof, covering at least 25% of the entire building wall area.
3746
3747 .
3748
- 3749 5. The exterior of windows and doors shall remain unshuttered at all times of the day. This provision
3750 shall not apply to the following:
3751
- 3752 a. Un-walled areas such as, but not limited to, dining and seating areas associated with
3753 restaurants and bars.
3754
- 3755 b. Hurricane shutters or flood-proofing panels during the time period in which a flood watch or
3756 warning, a tropical storm watch or warning, or a hurricane watch or warning is in effect for
3757 any portion of Lee County. Such shutters or panels shall be removed within a week from the
3758 time they are put up, unless a hurricane, tropical storm, or flood has impacted the area, in

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3759 which case the shutters may remain up for not more than three months from the date of the
3760 incident, except for good cause shown to the City.

3761
3762 D. Non-residential buildings with a first story consisting of more than 35,000 square feet of floor area
3763 and consisting of a single use shall meet the following requirements:

3764
3765 1. One public entrance shall be provided for every 75 feet of overall building frontage; or

3766
3767 2. Liner buildings meeting the following requirements shall be provided:

3768
3769 a. Liner buildings shall be provided along at least 50% of the overall building frontage.

3770
3771 b. Liner buildings shall contain active uses with at least one public entrance provided for every
3772 75 feet of liner building frontage. Such liner buildings shall comply with all applicable building
3773 setbacks and building frontages.

3774
3775 c. Liner buildings shall have an interior depth of at least 15 feet.

3776
3777 d. Liner buildings may be detached from, attached to, or integrated into the principal building.

3778
3779 E. Architectural elements design standards: awnings, canopies, colonnades, arcades, balconies, front
3780 porches, stoops/landings, and cupolas. A first story facade facing a street or dedicated city parking
3781 area shall provide shade with awnings, canopies, colonnades, arcades, balconies, or any combination
3782 thereof, for at least 50% of its length or width, unless prohibited by Article 4, Chapter 5. Architectural
3783 elements, or any combination of architectural elements, may occur forward of the minimum setback,
3784 as applicable, but shall not extend forward of a lot line. Architectural elements, or any combination
3785 of architectural elements shall not encroach into an easement unless approved by the City. The city
3786 may require the property the property owner to enter into a formal easement agreement in a form
3787 acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to
3788 encroachments in the easement that result from maintenance or public infrastructure improvements.

3789
3790 1. The City shall consider the following criteria in determining whether to approve an architectural
3791 element, or any combination of architectural elements, that would encroach into the easement:

3792
3793 a. The extent to which the architectural element would encroach into the easement;

3794
3795 b. The effect of such encroachment on any utilities that are either currently located in the
3796 easement or that may be located in the easement in the future; and

3797
3798 c. The effect of such placement on any abutting properties or streetscape.

3799
3800 2. Awnings and canopies. Awnings and canopies extending from the first story, facing a street or
3801 dedicated city parking area, and serving to meet the 50% length/width requirement of Article 4,
3802 Chapter 5 shall conform to the following:

3803

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- 3804 a. Depth shall be a five-foot minimum projection from the building facade.
3805
3806 b. Height shall be an eight-foot minimum clearance, including suspended signs.
3807
3808 3. Colonnades and arcades. Colonnades and arcades facing a street or dedicated city parking area
3809 shall conform to the following:
3810
3811 a. Depth shall be a minimum of five feet from the building wall to the inside column face.
3812
3813 b. Height shall be an eight-foot minimum clearance, including suspended signs. The lowest point
3814 on arches shall not extend below seven feet.
3815
3816 c. Openings between piers, columns, or similar supporting elements shall be at least 50% of the
3817 colonnade or arcade facade area.
3818
3819 d. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be
3820 permitted above the colonnade or arcade.
3821
3822 4. Balconies. Balconies shall be open and un-air-conditioned. Balconies may have roofs. Roofed
3823 balconies may be enclosed with screen and may contain privacy partitions. Balconies shall not
3824 project beyond the rear building setback requirement, as applicable. Balconies shall be located
3825 no closer than six feet from the abutting side lot line. Balconies facing a street or dedicated city
3826 parking area shall have a height clearance of ten feet minimum from grade; their decorative or
3827 supporting elements that project from building walls shall have a clearance of seven feet from
3828 grade.
3829
3830 5. Front porches. Front porches shall be un-air-conditioned. may be screened, and shall conform to
3831 the following:
3832
3833 a. Front porches facing a street or dedicated city parking area and serving to meet the minimum
3834 building frontage requirements of Article 4, Chapter 5 shall be a minimum of eight feet in
3835 depth.
3836
3837 b. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be
3838 permitted above front porches.
3839
3840 6. Stoops and landings. Stoops and landings may be roofed or unroofed, and shall maintain the
3841 required minimum building setback, as applicable. However, access to a stoop, whether by stairs,
3842 ramp, or other means, may extend forward of the minimum building setback as applicable, if
3843 approved by the Director but shall not be located less than three feet from the front lot line.
3844
3845 7. Cupolas. When provided, cupola(s) shall have a maximum of 400 square feet in horizontal
3846 dimension and shall be limited to two per building.
3847

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- 3848 8. Garage doors associated with residential uses, when facing the front of the lot, shall be set back
3849 at least 20 feet behind the building line.
3850

3851 **Section 5.8.10. Equipment and Loading Areas**
3852

- 3853 A. For all non-residential and mixed-use developments, air conditioning, heating, and similar equipment
3854 shall be placed on the roof or the ground.
3855

- 3856 1. Air conditioning and heating equipment shall be prohibited from being mounted on the side of a
3857 building.
3858

- 3859 2. Rooftop equipment shall be screened on all sides in a manner consistent with the architectural
3860 design of the building. Such screening shall be at least as high as the highest portion of the
3861 equipment or apparatus being screened.
3862

- 3863 3. Equipment located on the ground shall be located or screened so as not to be visible from any
3864 property line abutting a public street other than an alley when viewed along a line perpendicular
3865 or radial to such property line. Screening shall consist of a wall, fence, plant material, or any
3866 combination thereof. Fences used for screening shall not be constructed of chain link with or
3867 without slats and are encouraged to be designed to appear to be constructed of material the same
3868 as the building, and to incorporate architectural trim features consistent with the building.
3869

- 3870 4. Electric meters and similar panels may be wall-mounted and are subject to the same screening
3871 requirements outlined in subsection c. above. In lieu of screening, the equipment may be painted
3872 to match the color of the building.
3873

- 3874 5. Attic vents and solar panels are exempt from the requirements of this subsection.
3875

- 3876 B. Loading areas that are visible from an abutting property with a residential future land use
3877 classification or that is separated from a property with a residential future land classification by an
3878 alley or a two-lane street shall be screened by a wall that is at least six feet in height, which is
3879 constructed of the same material as the building or is designed to appear to be constructed of material
3880 the same as the building, and that incorporates architectural trim features consistent with the
3881 building, by an earthen berm that is at least six feet in height, or by a combination of wall and berm
3882 that is at least six feet in height.
3883

3884 **Section 5.8.11. Deviations.**
3885

- 3886 A. Deviations from the provisions of this section may be approved by the Director provided that the
3887 deviation will not be contrary to the public interest and will be in harmony with the general intent
3888 and purpose of this section and where either of the following applies:
3889

- 3890 1. Conditions exist that are not the result of the applicant and which are such that a literal
3891 enforcement of the regulations involved would result in unnecessary or undue hardship; or
3892

- 3893 2. Literal conformity with the regulations would inhibit innovation or creativity in design.

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- B. In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Director shall consider include, but are not limited to, the following: site constraints such as shape, topography, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, the effect the requested deviation would have on the community appearance including, but not limited to, consideration of the mass, scale, and other characteristics of a proposed building relative to the characteristics of existing and approved surrounding buildings whether on the same or nearby sites, and the relative visibility and character of equipment or loading areas which are otherwise required to be screened along with constraints on alternative location of such equipment or loading areas. Additionally, the Director shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city.

- C. In determining whether a particular deviation request should be approved because compliance with the regulations would inhibit innovation or creativity in design, the Director approve the request for deviation(s) if the applicant demonstrates that the design of the building or development for which one or more deviations is sought is unique and innovative and further, that the approval of the deviation(s) would enhance such unique and innovative design. Additionally, the Director shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city. For purposes of this section, indicators of unique and innovative design may include, but are not limited to, the following:
 - 1. Architectural details that are unique or that are exceptional in quality by virtue of artistic composition, quality of materials, dimensional attributes, or any combination thereof;
 - 2. Building forms that evoke exceptional expression through use of angularity, curvature, or other means;
 - 3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
 - 4. Other details or forms that preclude visual monotony and are pleasing in aesthetic character.

- D. Requests for deviations and the reasons therefor shall be set forth by the applicant in the application for deviation and shall be accompanied by documentation including sample detail drawings, schematic architectural drawings, site plans, floor plans, elevations, and perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the benefit or at least not to the detriment, of the public interest.

- E. Subject to these standards and criteria, the Director shall approve only the minimum deviation from the provisions of this section necessary to avoid either the unnecessary or undue hardship or the inhibition of innovation or creativity in design. The Director may impose reasonable conditions of approval in conformity with this section. Violation of such conditions and safeguards, when made a part of the terms under which a deviation is granted, shall be deemed a violation of this section and

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3940 shall be enforceable not only by revocation of the deviation, but also by all other remedies available
3941 to the city, including, but not limited to, all code enforcement procedures.

3942

3943 **CHAPTER 9. TEMPORARY USES.**

3944

3945 **Section. 5.9.1. Purpose and applicability.**

3946

3947 A. The purpose of this Section is to ensure all temporary events and activities are located and
3948 coordinated in harmony with the surrounding community. Temporary uses are authorized in this
3949 article as temporary accessory or principal uses for time periods proportionate and appropriate to the
3950 nature of the temporary use. Temporary uses permitted by this article may not be listed as a use in a
3951 particular zoning district. Temporary uses not listed in this article may be permitted through a
3952 temporary use agreement approved by the Director of Community Development

3953

3954 B. All temporary uses and special events approved subject to the standards and requirements set forth
3955 under this article are deemed to be a privilege and not a right, which may be revoked by the city for
3956 failure to comply with any of the provisions of this article or any other local, state, or federal law
3957 governing the event. Approved temporary uses and special events may also be revoked if such
3958 revocation is in the best interest of the city based on emergency, disorder, or other unforeseen
3959 conditions. Private events held on private property shall not require a temporary use permit. Signs
3960 shall be limited to the signs permitted in Section 5.9.10 of this article and shall not be allowed within
3961 the right-of-way.

3962

3963 C. Application for a temporary permit.

3964

3965 1. Temporary use permits shall be coordinated by the Community Development department who
3966 may request reviews from the Fire, Police, Building, and Public Works departments as necessary
3967 to ensure safety.

3968

3969 2. If a temporary use or event is proposed at a public park property, an application must be
3970 submitted to the Parks and Recreation Department along with any applicable fees and proof of
3971 insurance.

3972

3973 3. Private events held on private property shall not require a temporary use permit.

3974

3975 **Section. 5.9.2. Firework, pumpkin, and Christmas tree sales.**

3976

3977 Temporary outdoor sales are prohibited, except as provided here in. Excepted seasonal events involving
3978 outdoor sales of merchandise shall meet all appropriate requirements of the Building Code, Electrical
3979 Code, Fire (Life Safety) Code, and Plumbing Code, particularly regarding temporary sanitary facilities.
3980 Temporary outdoor sales are prohibited unless they have applied for and received all required permits in
3981 compliance with this Subsection. Firework, pumpkin, and Christmas tree sales may be in all nonresidential
3982 zoning districts except the Preservation and Public Zoning Districts subject to the following:

3983

3984 A. Application. A complete application must be submitted to the Department of Community
3985 Development, along with a conceptual site plan.

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- B. Dates and hours of operation:
 - 1. Firework sales may be operated from December 15 through January 1 and from June 1 through July 10;
 - 2. Pumpkin sales may be operated from October 1 through November 5;
 - 3. Christmas tree sales may be operated from November 15 to January 1; and
 - 4. Lots may be open from 8 AM to 10 PM.
- C. Parking and facilities.
 - 1. Temporary sales lots must provide five parking spaces per half acre. A paved parking lot shall not be required.
 - 2. Permission to place one or more tents (up to a total of 425 square feet in size) on the site, provided that the applicant provides proof of fire-retardancy and adequate tie-down measures with the application. Tents larger than 425 square feet shall require a separate tent permit. The location and setback of the tent(s) shall be shown on the conceptual site plan. If a sales trailer is being used in lieu of a sales tent, the sales trailer shall be handicap-equipped and accessible in accordance with the Florida Accessibility Code for Building Construction and ADA requirements and shall be anchored in accordance with all applicable building code standards.
 - 3. Permission to utilize an electric generator on site. A temporary electric pole shall not, however, be authorized by the temporary sale permit. A temporary electric pole shall require a separate permit to be applied for and issued to a licensed electrical contractor.
- D. The Director may approve temporary outdoor seasonal sales in the RML zoning district, if it is determined that such sale would not result in adverse impacts on the surrounding neighborhood. Approval of a season sale in the RML district may include conditions to protect the surrounding neighborhood from adverse impacts.
- E. The applicant shall request inspection by the city of the items authorized pursuant to this Section and shall receive approval thereof prior to beginning the sale activity. Inspection of items authorized pursuant to this Section shall be made by the Community Development and Fire Departments.

Section. 5.9.3. Outdoor display of merchandise.

Unless otherwise permitted, outdoor display of merchandise is prohibited, except on improved property in accordance with the following conditions:

- A. All outdoor display of merchandise for sale, in non-residential districts is permitted with the following conditions:

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- 4032 1. Except in the downtown zoning district, such displays may be no closer than 10 feet to the front
4033 or rear property lines and five feet to side property lines or 15 feet to the side property line on
4034 corner lots.
4035
- 4036 2. Displays may not be in required parking. If such displays are placed on a public sidewalk, the
4037 display shall comply with the following regulations:
4038
- 4039 a. Displays may be placed on the public sidewalk only directly in front of the lawfully existing
4040 business which retails the items being displayed.
4041
- 4042 b. Displays shall be placed on tables, shelves, or racks that are moved indoors during any hours
4043 the business is not open and that do not exceed six feet in height and do not extend more
4044 than two feet onto the public sidewalk.
4045
- 4046 B. Outdoor display of merchandise for sale on vacant property is prohibited, except as permitted for
4047 seasonal events in accordance with Section 5.9.2. or special events in accordance with Section 5.9.10.
4048

4049 **Section. 5.9.4. Garage sales.**

4050 Garage sales may be permitted on a private property in accordance with the following regulations:

- 4051 A. Garage sales are permitted to be held for a period not to exceed three days, on the basis of three such
4052 activities per residence per year, not to be held closer than 30 days apart.
4053
- 4054 B. Prior to conducting a garage sale, the person conducting such sale is required to obtain a permit online
4055 from the city website or at the Code Enforcement Division. Such permit shall be posted or otherwise
4056 displayed on the property where the sale is being held to be visible from the street. In the event a
4057 garage sale is conducted without a permit, such sale shall be closed by the Police Department or the
4058 Code Enforcement Division, and shall remain closed until a valid garage sale permit is received from
4059 the city. Garage sale permits shall include authorization for on-site signs and off-site signs in
4060 accordance with applicable portions of the City of Cape Coral Land Development Code. On-site or off-
4061 site garage sale signs shall not be attached to any utility pole, street sign, tree, or other landscaping.
4062
- 4063 C. The purchase of items for resale at a residence, which in essence establishes a residence as a second-
4064 hand store, is hereby prohibited.
4065
- 4066 D. A violation of this Section shall be punishable by a fine of not less than \$75 and not more than \$250.
4067 Each day any violation of any provision of this Section occurs or continues shall constitute a separate
4068 offense. As an alternative, violators may be cited by a Code Enforcement Officer to appear before the
4069 Code Enforcement Special Master. In such event, violators shall be subject to fine(s) not to exceed
4070 \$250 per day for first time violations or not to exceed \$500 per day for repeat violations, as imposed
4071 by the Code Enforcement Special Master pursuant to the City of Cape Coral Code of Ordinances or the
4072 Florida Statutes. A person is subject to arrest if he or she refuses to close down a garage sale for which
4073 no valid permit is in effect.
4074
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4077 **Section. 5.9.5. Temporary construction or field office.**

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- A. Construction trailers in residential zoning districts are subject to the following requirements.
 - 1. Construction trailers shall not be connected to potable water and sewer facilities. If the construction trailer is wired for electricity, the wiring must conform to all applicable city electric codes.
 - 2. The construction trailer must be removed from the site prior to issuance of a certificate of occupancy.
 - 3. No overnight residential use shall be permitted in a construction trailer.
 - 4. Construction trailers must comply with the setback requirements of the zoning district or the site.
 - 5. Construction trailers shall not be larger than 200 square feet.

- B. Construction trailers in non-residential zoning districts are subject to the following requirements.
 - 1. When a construction trailer is used as a temporary office, the trailer must be wired for electricity and must be connected to potable water and sewer facilities, if available. Wiring and plumbing must conform to applicable Electric and Plumbing Codes.
 - 2. The construction trailer must be located at the construction site or an abutting site with the property owner's written permission.
 - 3. The construction trailer must be removed from the site prior to issuance of a certificate of occupancy.
 - 4. No overnight residential use shall be permitted in a construction trailer.
 - 5. Construction trailers must comply with the setback requirements of the zoning district or the site.

Section 5.9.6. Construction staging areas and post disaster debris staging

- A. Contractor staging for essential public facilities. Contractor staging areas for materials used in construction of essential public facilities are permitted in all zoning districts, subject to the following requirements:
 - 1. The temporary staging area shall serve a project being carried out in the vicinity of the construction staging area;
 - 2. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;

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- 4123
- 4124 3. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through
- 4125 Saturday only;
- 4126
- 4127 4. Fencing required;
- 4128
- 4129 5. No structures other than a permitted construction trailer may be placed on the property; and
- 4130
- 4131 6. No outdoor lighting is permitted for any staging area in a residential zoning district
- 4132
- 4133 B. Construction staging areas. Construction staging areas are a permitted activity in all zoning districts,
- 4134 provided the staging area is on the same parcel where construction activity is authorized by a valid
- 4135 building permit. Construction staging areas on vacant, adjoining, or nearby parcels is prohibited.
- 4136
- 4137 C. Post disaster debris staging areas. Post disaster debris staging areas are allowed in all zoning
- 4138 districts on sites designated by the City for such activity.
- 4139
- 4140 D. Post disaster construction staging. Staging areas for post disaster reconstruction efforts are allowed
- 4141 in all non-residential zoning districts. Post disaster construction staging is allowed in residential
- 4142 zoning districts as a (special exception/conditional) use.
- 4143

4144 **Section. 5.9.7. Temporary sales office.**

4145

- 4146 A. Temporary sales offices are mobile structures used only for the sale or lease of units within that
- 4147 development. For the purpose of this section, units to be located within the development shall
- 4148 mean residential, non-residential, or mixed use habitable space or leasable floor area, whether
- 4149 occupying all of a building or individual area within a building including residential units,
- 4150 residential or non-residential units, individual units in a multi-unit non-residential development,
- 4151 or freestanding residential or non-residential structures.
- 4152
- 4153 B. Requirements for a temporary sales office. The following requirements must be met prior to the
- 4154 approval of a temporary sales office:
- 4155
- 4156 1. Connection to sewer and water is required. If sanitary sewer and potable water are unavailable
- 4157 to the site, bottled water and portable sanitary facilities may be utilized until such time as
- 4158 sanitary sewer and potable water are available. A temporary sales office shall be connected to
- 4159 such facilities within 90 days of availability or within 90 days of the permitted temporary sales
- 4160 office, whichever is less.
- 4161
- 4162 2. The temporary sales office shall meet the setbacks of the zoning district in which it is located.
- 4163

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- 4164 3. A temporary sales office shall not be used as a place of habitation or abode by any person(s),
4165 and shall not be used or occupied for business, office, or other purpose(s) at any time except
4166 between the hours of 7:00 a.m. and 9:00 p.m.
4167
- 4168 4. A minimum of three paved off-street parking spaces shall be provided for the temporary sales
4169 office.
4170
- 4171 5. The entrance to the site on which the temporary sales office is located shall consist of a city
4172 approved driveway or construction entrance. Any impervious area added for the temporary
4173 sales office shall be subject to review and approval by the city.
4174
- 4175 6. The base of any temporary sales office shall be fully obscured by landscaping and skirting.
4176 Shrubs must be planted on 30-inch centers and have a minimum planted height of two feet.
4177 The type of irrigation, if applicable, must also be provided on the plan. Erosion shall be
4178 minimized and prevented to the extent practicable around any disturbed area.
4179
- 4180 7. The maximum duration of the permit shall not exceed one year. The Director may extend
4181 permits for up to six months each, based upon factors that include:
4182
- 4183 a. Size of the project.
4184
- 4185 b. Number of lots or units in the development remaining to be sold or leased.
4186
- 4187 c. Effect that the extension would have on the surrounding properties.
4188
- 4189 d. Developer's need for an extension and efforts, if any, the developer has put forward
4190 toward completion of the development (e.g., effort to complete construction in a timely
4191 manner, delays beyond the reasonable control of the developer, etc.).
4192
- 4193 8. A temporary sales office shall be removed no later than the date the development is completed
4194 or within 30 days after notice by the city that the application for development has been denied,
4195 whichever is applicable.
4196
- 4197 C. Permit application and submittal requirements. A permit shall be required for a temporary sales
4198 office. In order to obtain a permit for the use of a structure for a temporary sales office, the
4199 applicant shall submit the following to the Department of Community Development:
4200
- 4201 1. A scaled drawing of the site, identifying the location of the temporary sales office with
4202 dimensions. Construction plans shall also be submitted.
4203
- 4204 2. The names of the property owner and the operator of the temporary sales officer. In the
4205 event the operator is different from the property owner, written and notarized consent from

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4206 the property owner must be submitted. Such written consent shall be revocable. In the event
4207 such consent is revoked, the temporary sales office shall be removed within 30 days.

4208

4209 3. The length of time the temporary mobile sales office is proposed for the site.

4210

4211 4. The description of potable water and sanitary facilities that will be available for the
4212 temporary office.

4213

4214 D. Inspection by city officials. To ensure compliance with all applicable laws and regulations, the
4215 temporary sales office shall be held open for reasonable inspection, without court order, by
4216 employees or agents of the City of Cape Coral or any other duly authorized governmental agency.

4217

4218 **Section. 5.9.8. Temporary Storage Containers.**

4219

4220 A. Temporary storage containers are prohibited in any zoning district of the city, except as follows:

4221

4222 1. Residential zoning districts. No more than one temporary storage container per dwelling unit is
4223 permitted in residential zoning districts.

4224

4225 2. Non-residential zoning districts. No more than two temporary storage containers are permitted
4226 in non-residential zoning districts. In the case of multi-tenant non-residential properties, each
4227 business or tenant may have a temporary storage container.

4228

4229 3. This section is not intended to restrict the storage or location of temporary storage
4230 containers on the premises of a business which is lawfully engaged in the sale, rental, or
4231 distribution of such containers so long as the containers are on the property of such business
4232 as "merchandise" and not for temporary storage of items or goods.

4233

4234 4. The provisions of this section shall not apply to prohibit or restrict the location of temporary
4235 storage containers on any property for which a valid City of Cape Coral building permit has
4236 been issued and is in effect provided that the construction on the property has not been
4237 abandoned or allowed to lie idle in violation of Article 5-2 of the City of Cape Coral Code of
4238 Ordinances.

4239

4240 B. General Requirements:

4241

4242 1. No temporary storage container may be placed in one or more parking spaces if the required
4243 number of parking spaces is reduced below the minimum number of spaces required for the
4244 site.

4245

4246 2. No temporary storage container shall block or reduce access to fire lane(s), handicapped
4247 parking area(s), or drainage facilities or structures, including swales and catch basins.

4248

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- 4249 3. Temporary storage containers shall not be placed in an easement or in any area designated
4250 as a buffer.
4251
- 4252 4. The maximum size of temporary storage containers shall not exceed ten feet in width, ten
4253 feet in height, or 40 feet in length.
4254
- 4255 5. Non-residential zoning districts. Temporary storage container permits are valid for 30 days.
4256 A maximum of two temporary storage container permits may be issued for a property or, in
4257 the case of multi-use or multi-unit properties, for each business or commercial enterprise
4258 located on the property in any calendar year. Temporary container permits may run
4259 consecutively without any minimum period required to elapse between the issuance of
4260 permits.
4261
- 4262 6. Residential zoning districts. Temporary storage container permits are valid for seven days. A
4263 maximum of two temporary storage container permits may be issued in any calendar year.
4264 Temporary container permits may run consecutively without any minimum period required
4265 to elapse between the issuance of permits. No dwelling unit shall utilize a temporary storage
4266 container for more than 14 days in any 12-month period.
4267

4268 **Section 5.9.9. Temporary Habitable Structures**
4269

- 4270 A. Purpose and intent. The purpose of this ordinance is to provide a means by which residents,
4271 business owners, governmental agencies, and medical facilities are able to live and conduct
4272 business on the same site as their damaged structure using temporary housing and temporary
4273 business structures. When disasters result in significant destruction rendering homes and
4274 businesses uninhabitable, temporary housing and temporary business structures will provide
4275 residents and businesses with the ability to quickly resume normal activities during the restoration
4276 of their permanent structures.
4277
- 4278 B. Definitions. Terms used in this subsection shall have the meanings as defined in Article 11,
4279 Definitions, unless the context clearly indicates or requires a different meaning.
4280
- 4281 C. Declaration of habitable structure emergency. Following a disaster, the city shall evaluate the
4282 effect of the disaster on the public health, safety, and welfare. If the City Council finds that the
4283 disaster has negatively affected residential housing or business structures in the city by a
4284 significant degree, the City Council may, by a majority vote, declare the existence of a habitable
4285 structure emergency. Upon the declaration of a habitable structure emergency by vote of the
4286 City Council, the provisions of this subsection shall become effective. The habitable structure
4287 emergency shall identify the disaster which created the emergency situation, and may be
4288 declared for either a specified period of time or an indefinite period of time. If the emergency is
4289 for an indefinite period of time, the emergency shall continue until City Council, by a majority
4290 vote, terminates the habitable structure emergency.
4291
- 4292 D. Habitable structure emergencies. During a habitable structure emergency, the city will allow, in
4293 accordance with the provisions set forth herein, the use of temporary structures. Temporary
4294 residential structures and temporary business structures must be approved by the city with a

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4295 temporary placement permit. Application and issuance criteria for a temporary placement permit
4296 are as set forth below.
4297

4298 E. Temporary business structures may be used for business owners to provide a means for a business
4299 to remain open during the time the permanent business structure is being repaired or replaced.
4300 Temporary business structures may be used to provide temporary facilities for governmental uses,
4301 critical public facilities, charitable, religious, or educational institutions that have been rendered
4302 uninhabitable. The regulations for temporary business structures shall apply to temporary business
4303 structures used for governmental uses, critical public facilities, charitable, religious, or educational
4304 institutions. For these institutions, the habitable structure regulations shall apply; however, the
4305 Building Official may waive any regulations when strict enforcement may preclude them from
4306 carrying out their normal or emergency functions. Critical facilities shall be limited to the following:
4307

- 4308 1. Federal, state, regional, or local government facilities;
- 4309
- 4310 2. State, county, or local emergency operations centers;
- 4311
- 4312 3. Police, fire, and emergency medical facilities;
- 4313
- 4314 4. Radio and television stations;
- 4315
- 4316 5. Public, semi-public, and privately-owned utilities;
- 4317
- 4318 6. Hospitals, emergency medical care facilities, infusion centers, dialysis centers, physician's
4319 offices; and
- 4320
- 4321 7. Nursing homes and assisted living facilities.
4322

4323 F. Temporary placement permit. Following the declaration of a habitable structure emergency, a
4324 property owner may apply for a temporary placement permit (TPP) to locate onsite while the
4325 permanent structure is being repaired or rebuilt. A temporary placement permit (TPP) may be
4326 considered by the Building Official when the following criteria are met:
4327

- 4328 1. The existing permanent habitable structure has been determined to be uninhabitable as the
4329 result of a disaster by inspection of the city Building Official;
- 4330
- 4331 2. The property owner or occupant of a damaged structure desires to locate in a temporary
4332 residential or business structure; and
4333
- 4334 3. A habitable structure emergency must be in effect at the time of application.
4335

4336 G. Applications for temporary placement permits.
4337

- 4338 1. Application forms and required fees.
4339

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- 4340 2. The following permits are required prior to application for a TPP:
4341
4342 a. City permits for hook-up to electric, potable water, and wastewater utilities; and
4343
4344 b. A State Department of Health or State Department of Environmental Protection permit
4345 authorizing the connection of the temporary residence to an onsite or small domestic
4346 wastewater treatment system.
4347
- 4348 H. Time limits. Temporary structures may be located for a period not to exceed 30 days. At the end
4349 of that 30-day period, if no application has been filed, the temporary habitable structure must
4350 be immediately removed from the site. If an application has been filed within the 30-day time
4351 period, the temporary habitable structure may remain in place until the TPP is either approved
4352 or denied. Once approved, the temporary habitable structure may remain in accordance with the
4353 TPP. If denied, the temporary structure shall be removed within five days from the date of denial.
4354
- 4355 I. Terms of use of temporary habitable structures. Applicants for a temporary habitable structure
4356 shall be subject to the following:
4357
- 4358 1. Except as otherwise provided herein, temporary structures shall not be occupied until such
4359 time as a valid TPP has been issued and is in effect for the site.
4360
- 4361 2. Connection to sanitary sewer and potable water, or onsite water and wastewater facilities,
4362 and an external electrical system are required within 20 days of issuance of the TPP.
4363 Inspections for such connections shall be called into the city within two days of completion
4364 of each connection. Electrical and plumbing connections must be done by electricians or
4365 plumbers licensed to do business in the City of Cape Coral.
4366 If there is no electricity to the site due to a power outage, a generator may be used. Upon
4367 restoration of electricity to the property, connection to the local power grid must be made
4368 within 24 hours of power restoration.
4369
- 4370 3. An application for a building permit is required within three months from the date of
4371 issuance of the TPP for temporary residential structures or within six months for temporary
4372 business structures. Failure to apply for a building permit within the required time shall deem
4373 the TPP revoked pursuant.
4374
- 4375 4. If a building permit application has not been submitted within the required time-frames, an
4376 applicant may petition City Council for relief from the time restrictions of this subsection.
4377 City Council shall determine whether the failure to apply for a building permit is due to good
4378 cause shown by the applicant. If City Council denies the request for relief, the temporary
4379 structure shall be removed from the site within ten days from the date of denial, or at the
4380 end of the initial three-month period for temporary residential structures, or at the end of
4381 the initial six-month period for temporary business structures, whichever is later.
4382
- 4383 5. Temporary habitable structures with a TPP may be used until the earlier of: 1) completion of
4384 the rehabilitation or reconstruction of the damaged structure; or 2) until such time as the

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4385 owner or occupants of the damaged structure are established in a permanent structure at
4386 another location.

4387

4388 6. Occupants must comply with all mandatory hurricane evacuation requirements.

4389

4390 J. Temporary structures. Temporary habitable structures must comply with the following:

4391

4392 1. Temporary residential structures may consist of a recreational vehicle or a travel trailer.
4393 Temporary business structures may consist of recreational vehicles, travel trailers, or mobile
4394 offices. At the discretion of the Building Official, additional types of temporary business
4395 structures may be allowed, consistent with applicable federal, state, and local regulations and
4396 the provisions of this ordinance.

4397

4398 2. Must meet all applicable National Fire Protection Association and Life Safety codes and
4399 regulations as well as all applicable state and local requirements for tie-downs.

4400

4401 3. Shall contain plumbing (both water and wastewater) and electrical connections and shall be
4402 capable of being hooked up or attached to external plumbing and electrical systems. Temporary
4403 residential structures shall contain a kitchen capable of being hooked up or attached to external
4404 plumbing and electrical systems. Requirements for temporary business structures shall be
4405 based upon the proposed use.

4406

4407 4. Shall meet the Florida Accessibility Code for building construction amenities.

4408

4409 L. Placement of temporary habitable structures. The following site considerations are required for
4410 placement of a temporary habitable structure:

4411

4412 1. Temporary residential structures may be anywhere on the site of the existing permanent
4413 residence; however, no a temporary residence is allowed within road rights-of-way or
4414 drainage or utility easements. The city may waive any development regulations regarding lot
4415 areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
4416 temporary residential structures.

4417

4418 2. Where more than one existing permanent residence has been rendered uninhabitable, the
4419 Building Official may allow up to the number of damaged permanent residences or residential
4420 units on the site. Such determination shall be based upon consideration of life, health, and
4421 safety requirements.

4422

4423 3. For temporary business structures:

4424

4425 a. Temporary business structures may be anywhere on the parcel of the existing business;
4426 however, temporary business structures are not allowed within road rights-of-way or
4427 drainage or utility easements. The city may waive any development regulations regarding

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- 4428 lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
4429 temporary business structures.
4430
- 4431 b. Temporary business structures may be on property adjacent to the permanent business
4432 structure if a notarized, written consent from the property owner is submitted at the
4433 time of application for a TPP.
4434
- 4435 c. The establishment of an emergency response team center on a parcel containing a
4436 business does not necessarily preclude the placement of one or more temporary business
4437 structures on the same parcel.
4438
- 4439 d. Parking for a temporary business structure shall be provided based upon the square footage
4440 of the temporary business structure, including handicapped parking. However, a minimum
4441 of two handicapped parking spaces must be provided.
4442
- 4443 e. The entrance to the site shall have a city approved driveway or construction entrance.
4444 Any impervious area added for the temporary business structure shall be subject to
4445 review and approval by the city.
4446
- 4447 f. Additional conditions or restrictions may be placed on a temporary business structure as
4448 a condition of issuance in areas including, but not limited to, the following:
4449 i. Hours of operation;
4450 ii. Traffic control and access;
4451 iii. Lighting; and
4452 iv. Noise control.
4453
- 4454 M. Issuance and revocation. The Building Official may revoke a TPP upon finding that any of the
4455 following has occurred:
4456
- 4457 1. Failure to connect to water, sewer, and electrical within 20 days of the receipt of the TPP.
4458
- 4459 2. If an application for a building permit has not been submitted within required time from the
4460 date of receipt of the TPP, or relocation has not occurred before the time of expiration of the
4461 TPP, or, if a building permit later expires.
4462
- 4463 3. If, upon inspection by the Building Official, a temporary residence is not in compliance with
4464 the requirements of this subsection.
4465
- 4466 4. Failure to evacuate temporary residence during mandatory evacuation orders.
4467
- 4468 5. Upon revocation of a TPP, the temporary residence must be vacated and the temporary
4469 residence removed within five days of revocation. Failure to vacate or remove the temporary
4470 residence constitutes a violation subject to the penalty imposed herein.
4471
- 4472 N. Extensions and expiration of temporary placement permits.

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1. Residential TPPs shall be valid for six months from the date of issuance. The Building Official may, for good cause shown, issue up to two extensions for six months each, for an 18-month maximum period of validity from the date of issuance.
2. Non-residential TPPs shall be valid for nine months from the date of issuance. The Building Official may, for good cause shown, issue up to two extensions for six months each, for a 21-month maximum period of validity from the date of issuance.
3. All applications for extensions of time must be submitted prior to the date of expiration of the current TPP.
4. Any further extensions after the second extension and maximum time period may not be issued by the Building Official: however, applicants may submit a request to City Council for their approval of any further extension of time for the TPP.
5. Factors to be considered by the Building Official or the City Council in determining whether to grant an extension of time of the TPP shall include:
 - a. The ability of the property owner or occupant of the temporary residential or business structure to secure permanent quarters; and
 - b. Any hardship that, in the opinion of the Building Official or City Council, as applicable, would warrant a further extension of the TPP.
6. Upon the, expiration of a TPP, a temporary residence or business structure must be removed or placed in proper storage on the property within 30 days. Failure to remove or properly store the temporary residence or business structure constitutes a violation subject to the penalty imposed herein.
7. Termination of temporary habitable structure. Once an uninhabitable structure has been issued a certificate of occupancy or certificate of use for a new or rehabilitated residence, business, or institutional facility, the TPP shall be deemed to be terminated. A temporary residential or business structure must then be removed or placed in proper storage on the property within 30 days. Failure to remove or properly store the temporary residence or business structure constitutes a violation subject to the penalty imposed herein.
8. Penalty. Any violation of the provisions of this subsection shall be subject to a \$500 fine. Each day of violation shall constitute a separate offense and shall be punishable as such.

Section. 5.9.10. Special events.

- A. Permit required. The following types of events shall require a permit:

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4561
1. An event expected to draw 500 or more persons at any session, as participants or spectators, which is proposed to be held on public property; or
 2. An event expected to draw less than 500 persons at any session as participants or spectators, which is proposed to be held on public property, if a street closing is required; or
 3. An event expected to draw 500 or more persons at any session as participants or spectators, which is proposed to be held on private property; if said participants or spectators will occupy adjacent public streets or public property during the event.
- B. An applicant may apply for a permit to sponsor a special event in the city by submitting the following documents to the Department of Parks and Recreation:
1. A completed, signed, and notarized application shall be submitted no less than 60 days prior to the opening of the event. Exceptions to the 60-day requirement may be approved by the Director of Parks and Recreation, based upon the size, duration, and nature of the event. The city reserves the right to verify the applicant's previous history of sponsoring special events with other jurisdictions.
 2. A non-refundable application and processing fee of \$40.
 3. A \$250 refundable clean-up deposit in the form of either cash or certified check payable to the City of Cape Coral. The property shall be cleaned within 48 hours of the close of the event and returned to substantially the same condition as just prior to the start of the event, or better. The clean-up deposit will be refunded to applicant upon satisfactory inspection of the property, by the city, after the event closes. If, within 48 hours after the close of the event, the property is not returned to substantially the same condition as prior to the start of the event, or better, the city, in its sole discretion, may utilize the clean-up deposit to do so and refund the remainder, if any, to the applicant.
- C. A tent may be erected for a special event for a maximum of five days. Any tent over 900 square feet will require a fire inspection.
- D. Insurance requirements.
1. Certificates of insurance for all properties used for the event must be submitted to the Parks and Recreation Department for approval by the City Risk Manager no less than 21 days prior to the event.
 2. Applicants and vendors shall have commercial or general liability insurance, including coverage for independent contractors, premises and operations, contractual liability, products and completed operations, personal injury, and property damage. Insurance coverage shall be no less than \$1,000,000 combined single limit for bodily injury and property damage and no less than \$1,000,000 for liquor liability, if applicable.

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- 4562 3. Vendors shall also have motor vehicle liability insurance for any motor vehicle of no less than
4563 \$1,000,000 and workers' compensation coverage, as required by statute.
4564
- 4565 4. The City of Cape Coral shall be named as additional insured. Certificates of insurance shall show
4566 the City of Cape Coral as the certificate holder.
4567
- 4568 E. In determining whether a permit shall be issued, the Director of Parks and Recreation, shall consider
4569 certain criteria including:
4570
- 4571 1. The size, duration, and nature of the event;
4572
- 4573 2. Previous history, if any, of organizing events within Lee County and whether said events created
4574 hazards or safety situations;
4575
- 4576 3. Other events previously scheduled during the same time period within the city;
4577
- 4578 4. If the applicant has been adjudicated guilty of violating any provision of this Section, said
4579 adjudication may constitute grounds for denial of future special events permits by the city; and
4580
- 4581 5. The Director of Parks and Recreation, may, in his or her sole discretion, deny the applicant a
4582 permit for the special event within the City of Cape Coral.
4583
- 4584 F. Special events shall be held in accordance with the following:
4585
- 4586 1. All applicable city ordinances and building, fire, and electrical codes shall be complied with.
4587
- 4588 2. Most events shall require off-duty City of Cape Coral police officers to be hired for the duration of
4589 any event to include one hour before opening and one hour after closing. The Police Chief, shall
4590 determine the number of officers required, if any, based upon the size and nature of the event
4591 and past experience with similar events. The cost for the off-duty detail shall be set using the
4592 present rate charged by the Police Department which shall be paid by the applicant prior to the
4593 issuance of the permit. All applicants must comply with any rules or regulations imposed by the
4594 Police Chief, which are consistent with this Section.
4595
- 4596 3. Most events shall require off-duty City of Cape Coral firefighters or paramedics, to be hired for
4597 the duration of any event to include one hour before opening and one hour after closing. The Fire
4598 Chief, shall determine the number of firefighters or paramedics required, if any, based upon the
4599 size and nature of the event and past experience with similar events. The cost for the off-duty
4600 detail shall be set using the present rate charged by the Fire Department which shall be paid by
4601 the applicant prior to the issuance of the permit. All applicants must comply with any rules or
4602 regulations imposed by the Fire Chief, which are consistent with this Section. In the event the Fire
4603 Chief determines that special equipment such as all-terrain vehicles, trailers, fireboats, or fire and
4604 rescue assets, and appropriate personnel for the special equipment are necessary, the city
4605 reserves the right to request reimbursement for all or part of the discretionary cost from the
4606 applicant.
4607

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- 4608 4. No open flame or other device emitting flames or fire shall be used in any tent or air supported
4609 structure while open to the public.
4610
- 4611 5. All equipment including, but not limited to, tents, stages, amusement rides, utility areas, ingress
4612 and egress locations, and cooking areas shall be inspected and approved by city fire inspectors or
4613 state officials, if applicable, prior to the opening of the event. If applicable, inspection certificates
4614 and annual permits, as required by the State of Florida, shall be submitted to the city prior to the
4615 opening of the event. All equipment and amusement rides, other than those which are patron-
4616 operated or controlled, shall only be operated by persons over 18 years of age who are employed
4617 by the applicant and who are thoroughly familiar with the operation of said equipment and
4618 amusement rides. The operator of such equipment and amusement rides shall be in the
4619 immediate vicinity of the operating controls at all times during the operation of the equipment
4620 and amusement rides and no unauthorized person shall be permitted to handle the controls
4621 during said operation.
4622
- 4623 6. Special event signs shall be permitted in accordance with the Land Development Code, Article 7.
4624
- 4625 7. Any person, entity, group, or organization engaging in speech, expression, or assembly, which is
4626 protected by the First Amendment of the United States Constitution or by Article I, Section 4 of
4627 the State of Florida Constitution, may do so during a Special Event, subject to the following
4628 reasonable time, place, and manner regulations.
4629
- 4630 a. The Director of Parks and Recreation shall have the authority to designate one or more areas
4631 during any special event for specific activities and to prohibit other activities within
4632 designated areas. The Director of Parks and Recreation shall post designated areas when such
4633 posting is appropriate.
4634
- 4635 b. If sound amplifying equipment is present, it shall be in accordance with a permit issued per
4636 Section 5.9.3 Outdoor Entertainment Event. The Director of Parks and Recreation shall
4637 establish one or more designated areas on public property within the area of the special event
4638 where such amplified sound may occur. If sound amplifying equipment is present on private
4639 property at the special event, the Director of Parks and Recreation may establish one or more
4640 designated areas on public property within the area of the special event where other
4641 amplified sound may occur. If amplified sound is not present on public or private property
4642 during the special event, all amplified sound shall be prohibited; however, nothing in this
4643 regulation shall serve to prohibit protected speech, expression, or assembly utilizing non-
4644 amplified, reasonable sound.
4645
- 4646 c. The Director of Parks and Recreation shall be responsible for the provisions of this Section,
4647 department rules and regulations, and city ordinances. No action shall be taken to enforce this
4648 Section until a warning to cease such a violation has been issued by a person authorized to
4649 enforce this Section and the violator continues such violation.
4650
- 4651 8. No person shall be permitted into, or remain on, private property covered by any special event
4652 permit for an event open to the public without the consent of the permittee.
4653

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- 4654 9. If a special event is open to the public only upon a payment of an entry fee or charge, no person
4655 shall be permitted into the special event without first paying the entry fee or charge.
4656
- 4657 10. No person shall unreasonably hamper, obstruct, impede, or interfere with any person, entity,
4658 group, or organization hosting a permitted special event.
4659
- 4660 G. Order to cease operation. If the Director of the City of Cape Coral Parks and Recreation Department,
4661 determines that proper provisions have not been made for the protection of the public health, safety,
4662 or welfare, he or she may issue an order to cease operating the special event until satisfactory
4663 corrective action has been taken.
4664
- 4665 H. All requirements of this Section are subject to modification or waiver by the City Council based upon
4666 the size, duration, nature of the event, and the city's involvement.
4667
- 4668 I. Intentional underestimation of the expected number of persons attending the event or failure to
4669 comply with any provision of this Section, shall constitute a violation of this Section, and shall subject
4670 the applicant to the code enforcement provisions and procedures of the City of Cape Coral Code of
4671 Ordinances including any and all provisions that allow the city to seek relief as otherwise provided by
4672 law.
4673
- 4674 J. Penalty. A violation of this Section shall be punishable by a minimum fine of \$100 and a maximum fine
4675 of \$500, in addition to the taxation of any court costs, or imprisonment for a term not to exceed 60
4676 days, or by both a fine and imprisonment.
4677

4678 **Section 5.9.11. Temporary Off-Site Vehicle Sales.**
4679

4680 The display of vehicles, including, but not limited to, automobiles, trucks, vans, recreational vehicles
4681 such as camping trailers, motorcycles and recreational terrain vehicles, and water craft such as boats,
4682 jet skis and wave runners, displayed for the purpose of sale, lease, trade or rental, shall be permitted
4683 at an off-site location (that is, on an improved property that is not the approved location of the
4684 business).
4685

4686 A. Temporary Off-Site Vehicle Sales shall adhere to the following requirements:
4687

- 4688 1. The commercial establishment seeking the temporary sale permit must have the written
4689 permission of the owner, or an authorized representative of the owner, of the property on
4690 which the temporary sale will be conducted. The written permission shall state that, as a
4691 condition of the city's issuance of a permit for the temporary sale, the property owner agrees
4692 to be responsible for any damage to the city's right-of-way or utility systems as a result of the
4693 sale and that any such damage shall be repaired at the expense of the property owner. In
4694 addition, such written permission shall also state that, in consideration of the city's issuance of
4695 the permit, the property owner shall hold the city harmless from any claim, loss, damage, or
4696 cause of action that arises because of the temporary sale or the issuance of the permit
4697 therefore, including any loss or damage to the owner's property or improvements thereon. Such
4698 written permission shall have a notarized signature and shall be filed with the Department of
4699 Community Development.

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2. The duration of any such temporary sale shall not exceed five consecutive days.
 3. The property on which the off-site sale is conducted shall not have been used for temporary off-site sales for more than six occasions in the preceding one-year period.
 4. Temporary sales shall only be conducted between the hours of 8:00 a.m. to 9:00 p.m.
 5. The display of vehicles and the operation of the temporary sale shall not interfere with the normal parking and traffic circulation of the business(es) located on the site.
 6. The temporary off-site vehicle sales permit shall, at all times during the permitted time period authorized for the sales, be displayed on the site upon which such sales are being conducted.
 7. No temporary sale shall begin until a permit therefore has been approved and issued by the city and all fees are paid in accordance with the city's adopted fee schedule. Prior to the issuance of a temporary sale permit, a complete application must be submitted to the Department of Community Development, along with a conceptual site plan. In addition to the proposed site layout and setbacks, the conceptual site plan shall address vehicular traffic and parking measures, fire protection measures, sanitary facilities and lighting and areas of electric needs. The temporary sale permit shall include, as applicable:
 - a. The right to erect one sign or banner, a maximum of 32 square feet in size, or two such signs or banners for properties having frontage on more than one street. In lieu of such sign(s) or banner(s), the applicant may display an inflatable object in accordance with Article 7 of this code. The applicant shall include with the application sign details such as the placement of the sign and anchoring or tie-down measures. The placement and anchoring of the means of advertisement shall not interfere with the visual safety of motoring traffic.
 - b. Permission to place one or more tents (up to a total of 425 square feet in size) on the site, provided that the applicant provides proof of fire-retardancy and adequate tie-down measures with the application. Tents larger than 425 square feet shall require a separate tent permit. The location and setback of the tent(s) shall be shown on the conceptual site plan. If a sales trailer is being used in lieu of a sales tent, the sales trailer shall be handicap-equipped and accessible in accordance with the Florida Accessibility Code for Building Construction and ADA requirements and shall be anchored in accordance with all applicable building code standards.
 - c. Permission to utilize an electric generator on site. A temporary electric pole shall not, however, be authorized by the temporary sale permit. A temporary electric pole shall require a separate permit to be applied for and issued to a licensed electrical contractor.
 - d. The applicant shall request inspection by the city of the items authorized under this section and shall receive approval thereof prior to beginning the off-site sale activity. Inspection of items authorized pursuant to subparagraphs a. through c. shall be made by

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4745 the Department of Community Development. Items authorized pursuant to subparagraphs
4746 b. and c. shall also be made by the Fire Department.
4747

4748 B. Any other outdoor display on improved property must be approved by City Council and is subject
4749 to review annually at the discretion of Council, except that the City Manager may approve requests
4750 for temporary displays of no longer than five days duration no more than two times per calendar
4751 year for any location or applicant when he or she is satisfied that the request would be in keeping
4752 with the harmony of the zoning district and that it would violate none of the ordinances of the City
4753 of Cape Coral.
4754

4755 **Section. 5.9.12. Tents, for other than Special Events.**
4756

4757 A tent may be permitted to be erected for a for a maximum of five days for an event. Any tent over 900
4758 square feet will require a fire inspection.
4759

4760 **Section. 5.9.13. Other events not named.**
4761

4762 A person desiring to hold any temporary event, not listed herein, shall contact the Community
4763 Development department regarding the necessity of a permit and any additional permissions that may be
4764 required.
4765

4766 **Chapter 10. - SPECIFIC USE REGULATIONS**
4767

4768 **Section. 5.10.1. Purpose and applicability.**
4769

4770 The uses listed in this chapter are deemed to be appropriate uses when developed and operated in
4771 accordance with the requirements listed within each Section. Approval may be granted administratively
4772 as long as the requirements are met and maintained. The applicant shall provide all documents necessary
4773 to prove that the requirements are met prior to receiving approval to operate and on an ongoing basis as
4774 required for the specific use.
4775

4776 **Section. 5.10.2. Craft breweries, distilleries, and wineries.**
4777

4778 A. Requirements. All craft breweries, distilleries, or wineries which produces alcoholic beverages for
4779 consumption on premise or provide retail sales, shall comply with the following requirements:
4780

4781 1. The business owner shall submit semi-annual production records to the Department of
4782 Community Development for all alcohol and nonalcohol products produced within the
4783 establishment.
4784

4785 2. All mechanical equipment used in the alcohol production process shall be behind a wall or fence
4786 that separates the equipment from any property line abutting a public street other than an alley
4787 when viewed along a line perpendicular or radial to such property line. The wall or fence shall be
4788 opaque and have a minimum height of six feet.
4789

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- 4790 3. Loading and unloading areas shall be provided to the side or rear of the building. Loading and
4791 unloading areas shall not be along the front of the building.
4792
- 4793 4. Spent or used grain or similar wastes may be placed outdoors for a period not to exceed 24 hours.
4794 The temporary stockpiling for spent or used grain shall be:
4795
- 4796 a. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the
4797 stockpiled spent grains on the property and the distance of the stockpiled grains from the
4798 property lines and the building containing the artisan brewery, distillery, or winery;
4799
- 4800 b. Located only along the side or rear of the building; and
4801
- 4802 c. Fully enclosed in containers that are behind an opaque wall or fence. The wall or fence shall
4803 have a minimum height of six feet. Cargo containers and tractor trailers shall not be utilized
4804 for the temporary stockpiling of spent or used grains even if the cargo containers and tractor
4805 trailers are behind an opaque wall or fence.
4806
- 4807 B. Waiver of requirements.
4808
- 4809 1. Permitted and Conditional Uses.
4810
- 4811 To encourage the repurposing of existing buildings in the NC or SC districts, any craft brewery,
4812 distillery, or winery that is approved as a permitted use, the provisions of this Section may be
4813 waived in part or in their entirety by the Director for the purpose of spurring economic
4814 development based on the criteria contained in Subsection 2.
4815
- 4816
- 4817 2. Criteria. In determining whether to waive one or more of these standards the Community
4818 Development Director shall utilize the following criteria:
4819
- 4820 a. The visibility of the mechanical equipment and loading areas from any public street(s).
4821
- 4822 b. The proximity and visibility of the mechanical equipment and loading areas from existing
4823 residential development.
4824
- 4825 c. The existence of site conditions that are not the result of the applicant and which are such
4826 that a literal enforcement of the regulations involved would result in unnecessary or undue
4827 hardship.
4828
- 4829 d. The effect other regulations would have on the proposed development or other locational
4830 factors that may make compliance with this Section impossible or impracticable.
4831
- 4832 e. The annual production of alcohol anticipated to be produced by the establishment.
4833
- 4834 f. The size and extent of the equipment requiring screening.
4835

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4836 **Section. 5.10.3. Duplexes.**

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4838 Duplexes must meet the following conditions:

4839

4840 A. All duplexes on parcels less than 20,000 square feet in area must be served by public water and sewer.

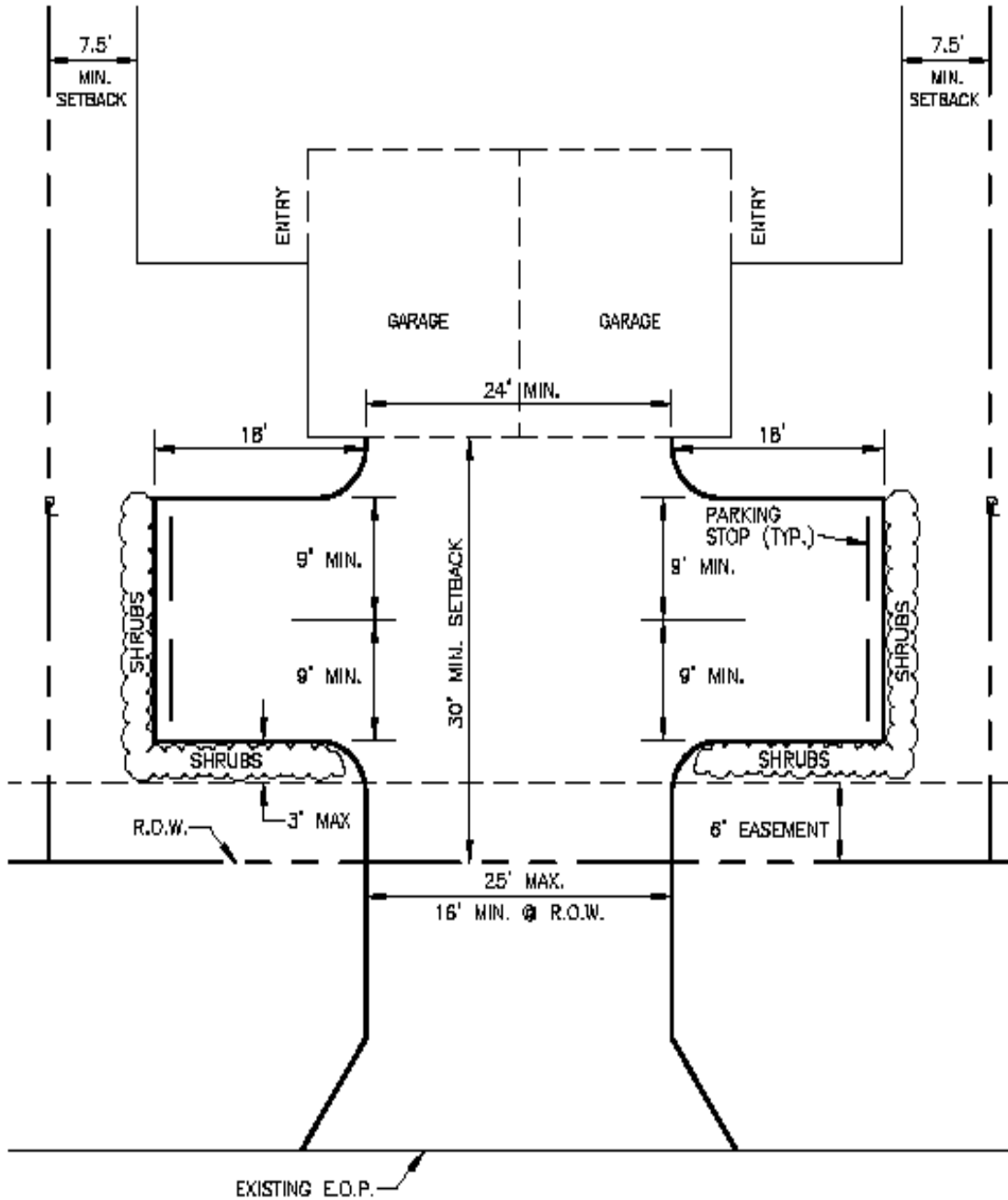
4841

4842 B. All duplex parking areas and driveways shall conform to one of the following Duplex Driveway and
4843 Parking Design Standards:

4844

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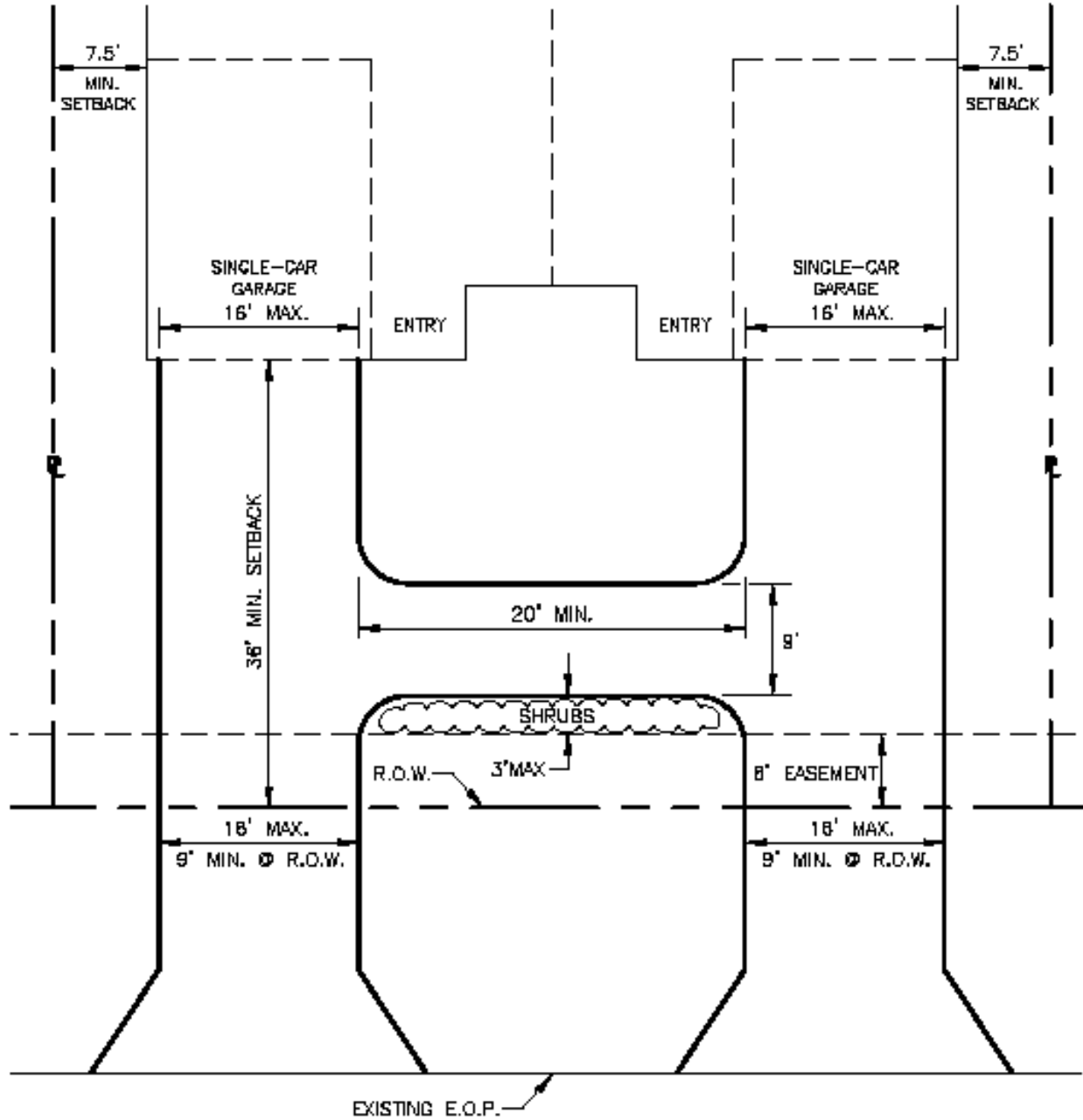
DUPLEX DRIVEWAY & PARKING STANDARD



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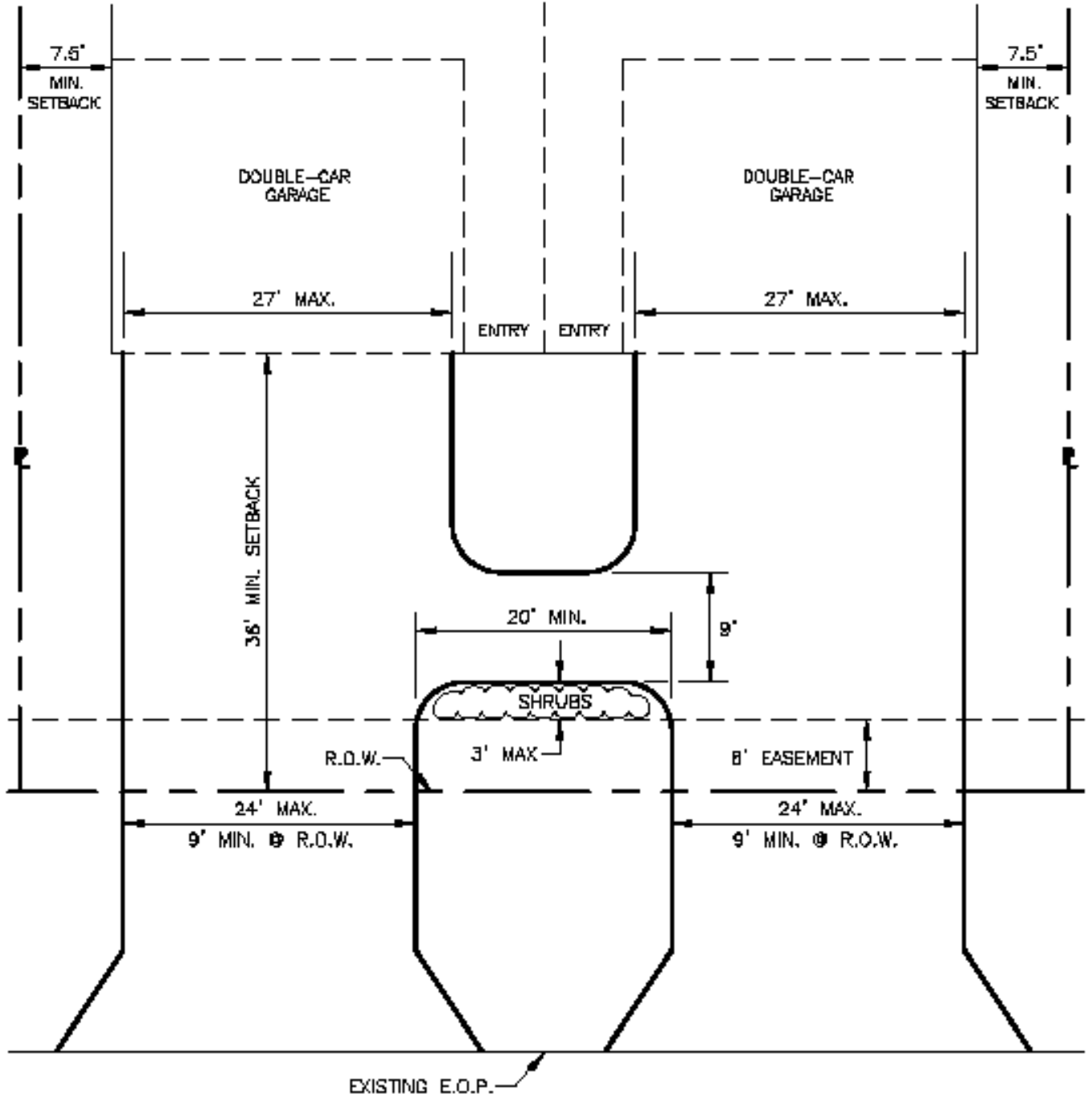
DUPLEX DRIVEWAY & PARKING STANDARD
(SINGLE-CAR GARAGE)



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DUPLEX DRIVEWAY & PARKING STANDARD
(DOUBLE-CAR GARAGE)



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- 4851 C. Duplex parcels may not be sold, subdivided, or conveyed by deed into individually owned parcels or
4852 dwelling units.
4853
- 4854 D. Landscaping shall be provided at a rate of two trees and six shrubs per each 2,500 square feet of the
4855 lot. A portion of the required landscaping shall be placed in the locations shown on the Duplex
4856 Driveway and Parking Design Standards.
4857
- 4858 E. All duplexes shall incorporate three of the following design elements into each dwelling unit:
4859
- 4860 1. Dwelling entry as the primary façade feature;
 - 4861
 - 4862 2. Garage door recessed from the front façade, a preferred minimum of four feet;
 - 4863
 - 4864 3. Horizontal eaves broken up with gables, projection, and articulation;
 - 4865
 - 4866 4. Projecting eaves and gables, related to building massing;
 - 4867
 - 4868 5. Building massing and roof form which articulate individual unit definition;
 - 4869
 - 4870 6. Offset of four feet where two garage doors are adjacent to each other; or
 - 4871
 - 4872 7. Projections and decorative elements, such as trellises, for visual interest.
4873
- 4874 F. Duplexes that have at least one dwelling unit entry on the side of a duplex shall not be required to
4875 provide a turn-around or a bump-out driveway on a 2-lane street.
4876

4877 **Section. 5.10.4. - Home occupations.**
4878

4879 Home occupations shall only be allowed as an accessory use to a residential use, provided the following
4880 conditions are met:
4881

- 4882 A. All home occupations operated in or from a residence shall comply with federal, state, and county
4883 rules and regulations, city license regulations specified herein, and any other applicable ordinances of
4884 the City of Cape Coral.
4885
- 4886 B. No person other than members of the immediate family may be employed for a salary, commission
4887 or upon any other remunerative basis.
4888
- 4889 C. No condition shall be permitted which tends to cause or increase the fire hazard to the residence,
4890 such as storage of paints or other flammable materials in excess of normal family use.
4891
- 4892 D. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display
4893 of materials be visible from the outside of the structure.
4894
- 4895 E. No home occupation shall occupy an area greater than 10% of the living area of the structure.
4896

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4897 F. The home occupation shall not generate pedestrian or vehicular traffic beyond that which is
4898 reasonable to the district in which it is located and it shall not involve the use of commercial vehicles
4899 for delivery of materials to or from the residence.

4900
4901 G. The appearance of the structure shall in no way be altered for the conduct of the home occupation
4902 within the structure nor shall the conduct be such that the structure may be recognized as serving a
4903 non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations,
4904 audible or visible interference in any radio or television receiver off the premises, or cause fluctuations
4905 in the electric voltage line off the premises.

4906
4907 H. No business operated under a fictitious name shall be issued a license to operate under this Section.
4908

4909 **Section. 5.10.5. RV resorts**
4910

4911 A. General provisions. Within a recreational vehicle park, recreational vehicles that meet the
4912 requirements herein, whether self-propelled or pulled by a towing vehicle, and camping cabins, as
4913 regulated herein, may be used for temporary lodging. Facilities to accommodate administration,
4914 maintenance, recreation, dining, and personal care may be included within a recreational vehicle
4915 park. Recreational vehicle parks shall be deemed to be nonresidential uses, and any transient guest
4916 site occupied by a registered guest of a recreational vehicle park shall not be deemed to be a
4917 "residence", "dwelling." or "residential premises" within the meaning of other provisions of the City
4918 of Cape Coral regulations. The management of all transient guest sites and camping cabins must be
4919 performed by a single on-site management company or entity, regardless of whether the transient
4920 guest sites, camping cabins, or both are owned by more than one person or entity.

4921
4922 B. Lodging unit characteristics. Lodging shall only be allowed within recreational vehicles and camping
4923 cabins that have all of the following characteristics:
4924

4925 1. Recreational vehicles:
4926

4927 a. Shall be no more than eight and one-half feet in body width, exclusive of safety devices
4928 when slide outs are retracted;
4929

4930 b. Shall have water and wastewater systems designed for continuous connection to water and
4931 wastewater service facilities while parked at a transient guest site; and
4932

4933 c. Shall not be constructed with collapsible partial sidewalls that fold for towing in such a way
4934 as to be unusable for occupancy.
4935

4936 2. Camping cabins shall comply with all of the following criteria:
4937

4938 a. Cabins shall be constructed in compliance with the Florida Building Code;
4939

4940 b. The square footage of interior space shall be a minimum of 200 square feet and a maximum
4941 of 600 square feet;
4942

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- 4943 c. Cabins shall be equipped with electric service and a full bathroom;
4944
4945 d. Cabins are exempt from non-residential design standards, however when there is more than
4946 one cabin in a development, the color scheme, exterior materials on walls, exterior roof
4947 finishing, and roof type must be consistent among all cabins;
4948
4949 e. Corrugated metal is prohibited for exterior walls; and
4950
4951 f. Roofs shall consist of pitched roofs, including but not limited to, gable, hip, or mansard
4952 roofs; however, mansard roofs with flat decks and shed style roofs are prohibited.
4953
4954 C. Location. Recreational vehicle parks are permitted only on property with a Mixed-Use future land
4955 use designation. No new recreational vehicle park shall be developed and no existing recreational
4956 vehicle park shall be expanded within a coastal high hazard area, as depicted in the Comprehensive
4957 Plan.
4958
4959 D. Minimum interior road standards. All interior roads shall be privately owned and maintained, and
4960 shall be constructed in accordance with the structural requirements within the City of Cape Coral
4961 Engineering Design standards.
4962
4963 E. Overall recreational vehicle park area and density. The following requirements shall apply to the
4964 recreational vehicle park net area:
4965
4966 1. Minimum recreational vehicle park net area: 25 acres;
4967
4968 2. Maximum net density: 10 transient guest sites per acre, based on net area; and
4969
4970 3. Minimum net density: For recreational vehicle parks with a net area of less than 50 acres, the
4971 minimum quantity of transient guest sites shall be 50; for recreational vehicle parks with a net
4972 area of 50 or more acres, there shall be no less than one transient guest site per acre, rounded
4973 to the nearest whole number.
4974
4975 For purposes of this section, the net area shall mean the area of the recreational vehicle park minus
4976 extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If an extant
4977 wetland or water area is expanded or contracted, the net area shall be based on the resultant
4978 wetland and water areas.
4979
4980 F. Transient guest sites. Transient guest sites can be designed with either: 1) a pad for parking one
4981 recreational vehicle; 2) one camping cabin; or 3) a pad for parking one recreational vehicle and one
4982 camping cabin. The following standards shall apply to transient guest sites within a recreational
4983 vehicle park:
4984
4985 1. Each transient guest site shall be clearly defined by a permanent marker, constructed of a
4986 durable material such as masonry or metal, placed at all corners;
4987

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2. No transient guest site shall include any space used for common areas, such as roadways, sidewalks, or community recreation areas;
 3. No more than 25% of the total transient guest sites shall be developed with a camping cabin. Transient guest sites with a pad for parking one recreational vehicle and one camping cabin shall not be factored into the 25% limitation to the number of camping cabins;
 4. All transient guest sites shall be designed to provide runoff of surface water to a drainage system or basin external to the transient guest site;
 5. Impervious area shall not exceed 65% of any transient guest site. Pervious areas of each transient guest site shall be covered in turf, groundcover, shrubs, trees, or any combination thereof;
 6. Each transient guest site shall have direct vehicular access to an interior road. No transient guest site shall have direct vehicular access to a public street;
 7. No transient guest site shall be located closer than 40 feet to any public street right-of-way;
 8. Separation: Each transient guest site shall be designed to ensure minimum separation between units. When measuring the distance from a recreational vehicle pad, paved areas that project more than four and one-half feet from the centerline of the pad, e.g., driveway apron flares, walkways, and patio areas, may be excluded. Distances of separation shall be as follows:
 - a. Between camping cabins: 15 feet;
 - b. Between a camping cabin and a recreational vehicle pad on the same transient guest site: 15 feet;
 - c. Between a camping cabin and a recreational vehicle pad on a separate transient guest site: 20 feet;
 - d. Between a transient guest site boundary line and a camping cabin: 7½ feet; and
 - e. Between transient guest site boundary line and a recreational vehicle pad: 7½ feet.
 9. Each transient guest site designed with a pad for parking a recreational vehicle shall have the following standards:
 - a. Maximum number of recreational vehicles: 1;
 - b. Minimum site area: 2,000 square feet;
 - c. Maximum site area: 1 acre;

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- 5033 d. Minimum site width: 35 feet, measured at right angles to and between the designated side
5034 boundary lines; and
5035
5036 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
5037 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
5038 asphalt as a paving material for vehicle pads and driveways is prohibited.
5039
- 5040 10. Each transient guest site developed with a camping cabin shall have the following standards:
5041
5042 a. Maximum number of camping cabins: 1;
5043
5044 b. Minimum site: 2,500 square feet; and
5045
5046 c. Parking space: Each site developed with a camping cabin shall include a minimum of one
5047 automobile vehicle parking space, paved with concrete or pavers, or as otherwise approved
5048 by the city, with minimum dimensions of 9 feet by 18 feet. This limitation shall not apply to
5049 transient guest sites with a pad for parking one recreational vehicle and one camping cabin.
5050 The use of asphalt as a paving material for vehicle parking spaces is prohibited.
5051
- 5052 11. Each transient guest site developed with both a pad for parking a recreational vehicle and with
5053 a camping cabin shall have the following standards:
5054
5055 a. Maximum number of units: one camping cabin and a pad for parking no more than one
5056 recreational vehicle;
5057
5058 b. Minimum site area: 5,000 square feet;
5059
5060 c. Maximum site area: 1 acre;
5061
5062 d. Minimum site width: 35 feet, measured at right angles to and between the designated side
5063 boundary lines; and
5064
5065 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
5066 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
5067 asphalt as a paving material for vehicle pads and driveways is prohibited.
5068
- 5069 12. Each transient guest site may also include accessory structures for outdoor living, including, but
5070 not limited to, an outdoor kitchen, fire pit, spa, hot tub, gazebo, shade shelter, marine
5071 improvements, and other hardscape features.
5072
- 5073 G. Utilities. Each transient guest site shall have direct connections to central potable water, central
5074 wastewater, and electric services. All water and wastewater utility infrastructure within a
5075 recreational vehicle park shall be privately owned and maintained, except as otherwise approved
5076 by the City Council. Within the recreational vehicle park, all telephone, electric, television cable
5077 service, or other wires of all kinds must be underground, provided, however, that appurtenances
5078 to these systems which require aboveground installation may be exempted from these

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5079 requirements and primary facilities providing service to the site of the development or necessary
5080 to service areas outside the planned development project may be exempted from this requirement.

5081
5082 H. Lighting. All roads, walkways and parking areas shall be provided with lighting adequate to ensure
5083 the safety of vehicular and pedestrian traffic. All lighting shall be designed so that it is not directed
5084 toward neighboring properties.

5085
5086 I. Parking. In addition to parking spaces on transient guest sites, a minimum of one parking space per
5087 ten recreational vehicle sites within the park shall be provided for visitors.

5088
5089 J. Designated storage. Except for boats at a rental facility or moored at a marine improvement, boats
5090 and utility trailers (tow dollies, "toy haulers", etc.) shall be stored in a designated storage area that
5091 shall occupy no more than 5% of the gross area of the park. Such storage area shall be for the
5092 exclusive use of registered guests. only during the period the guest is a registered occupant of a
5093 transient guest site. Designated storage areas shall be enclosed by an opaque visual barrier that is
5094 a minimum of eight feet in height. The following materials, either singly or in any combination, are
5095 the only materials that may be used to form the opaque visual barrier:

- 5096
5097 1. Wood, plastic, vinyl, or metal fencing;
5098
5099 2. Concrete block and stucco wall;
5100
5101 3. Brick wall; or
5102
5103 4. Formed, decorative, or precast concrete.

5104
5105 No storage area shall be located closer than 40 feet to any exterior property line of the recreational
5106 vehicle park. No repair or maintenance other than cleaning shall be conducted within such storage
5107 area.

5108
5109 K. Recreation area. At least one recreation area shall be provided within the park, designed and
5110 improved to serve the recreational needs of the park users. The recreation area(s) shall be a
5111 minimum of 500 square feet per transient guest site. All recreation areas shall be accessible to all
5112 occupants of the park. If more than one recreation area is provided, no recreation area shall be less
5113 than 10,000 square feet. A minimum of 50% of the total required recreation area shall be comprised
5114 of recreation within a building, or outdoor facilities for active recreation, including, but not limited
5115 to, swimming pools, ball fields, tennis courts, or play lots with facilities. No portion of any transient
5116 guest site, perimeter buffer yard, internal road or road easement, or stormwater management area,
5117 except as provided below, shall be counted as required recreation area. Bodies of water may be
5118 counted toward required recreation area if recreational use is not otherwise prohibited on or in the
5119 body of water and if recreational amenities, including, but not limited to, a beach, boat rental or
5120 launching facilities, are provided. In no event, however, shall bodies of water comprise more than
5121 50% of the required recreation area.

5122
5123 L. Landscaping plan. Requests for approval for a recreational vehicle park shall be accompanied by a
5124 landscaping plan that provides, at a minimum, compliance with Section 5.5.

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5125
5126 M. Phasing. The Director shall not issue a certificate of use for a recreational vehicle park prior to
5127 completion of construction of all of the transient guest sites, internal roads, drainage system,
5128 potable water and wastewater utilities, landscaping and buffering, and accessory structures
5129 approved for the park, unless the Hearing Examiner and Appeals (or the City Council, when
5130 applicable) approves a phasing plan that identifies size, location, sequence, and timing of the
5131 various phases of the development. If a phasing plan is approved, the Director shall not issue a
5132 certificate of use for any phase that has not been completed in its entirety.

5133
5134 N. Operation generally.

5135
5136 1. Responsibilities of management. The owner of a recreational vehicle park shall, at all times,
5137 maintain the park and its facilities in a clean, orderly and sanitary condition. The park
5138 management shall inform all registered occupants of transient guest sites of the provisions of
5139 this section and other related ordinances and statutes, and of their responsibilities thereunder.

5140
5141 2. Certificate of use required. No lodging within recreational vehicles or camping cabins shall occur
5142 prior to the issuance of a certificate of use for the recreational vehicle park.

5143
5144 3. Length of occupancy. No owner of any recreational vehicle park shall allow or permit any
5145 transient guest sites in a recreational vehicle park to be rented to or occupied by any person or
5146 recreational vehicle for any period of time that would permit or allow any person or recreational
5147 vehicle to remain at such recreational vehicle park for more than 180 days in any 365-day
5148 period.

5149
5150 4. Register of occupants. The owner or operator of any recreational vehicle park shall file a report
5151 with the Director showing the guest names and addresses, recreational vehicle license numbers,
5152 dates of arrival and departure, and the transient guest site occupied by each guest at the
5153 recreational vehicle park during the preceding calendar quarter. Such reports shall be filed not
5154 later than April 15th, July 15th, October 15th and January 15th for the immediately preceding
5155 calendar quarter.

5156
5157 O. Inspections authorized. The Director is hereby authorized to make periodic inspections of the
5158 recreational vehicle park and transient guest sites for the purpose of determining satisfactory
5159 compliance with the regulations of this section pertaining to the health, safety and welfare of the
5160 community.

5161
5162 P. Incidental facilities and amenities. Various facilities and amenities incidental to a recreational
5163 vehicle park are permissible, however, all facilities and amenities must meet all requirements stated
5164 herein together with any additional conditions of approval.

5165
5166 1. The following facilities may be approved as incidental to a recreational vehicle park:

5167 a. Administrative offices;

5168 b. Caretaker or watchperson residence (no more than one);
5169
5170

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- 5171
- 5172 c. Car wash (Recreational vehicle washing facilities only);
- 5173
- 5174 d. Clubhouses;
- 5175
- 5176 e. Gatehouses;
- 5177
- 5178 f. Grounds maintenance facilities;
- 5179
- 5180 g. Laundry facilities:
- 5181
- 5182 h. Marine improvements;
- 5183
- 5184 i. Restrooms and community showers; and
- 5185
- 5186 j. Sanitary dump stations.
- 5187
- 5188 2. The following amenities are permitted as amenities incidental to the recreational vehicle park
- 5189 even though they are typically land use classifications identified as individual "uses" within
- 5190 other zoning districts.
- 5191
- 5192 a. Banquet halls;
- 5193
- 5194 b. Bars;
- 5195
- 5196 c. Commercial Recreation – indoor and outdoor;
- 5197
- 5198 d. Cultural and civic facilities;
- 5199
- 5200 e. Personal services;
- 5201
- 5202 f. Professional Offices;
- 5203
- 5204 g. Restaurant, no drive-thru; and
- 5205
- 5206 h. Retail.
- 5207
- 5208 3. For recreational vehicle parks with no frontage on any type of arterial or collector street, food
- 5209 stores, personal services, and restaurants shall be limited as follows:
- 5210
- 5211 a. Vehicular ingress/egress for parking lots supporting an amenity shall not be directly
- 5212 accessible from any public street, but shall only be accessible from a road within the park;
- 5213
- 5214 b. No signs shall be visible from outside the recreational vehicle park; and
- 5215

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- 5216 c. The cumulative gross leasable floor area occupied by food stores, personal services, and
5217 restaurants shall not exceed 3% of the net area of the recreational vehicle park. For
5218 purposes of this section, the net area shall mean the area of the recreational vehicle park
5219 minus extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If
5220 an extant wetland or water area is expanded or contracted, the net area shall be based on
5221 the resultant wetland and water areas. Food stores shall not occupy more than 25,000
5222 square feet of contiguous gross leasable floor area.
5223
- 5224 4. For recreational vehicle parks with frontage on any type of arterial or collector street, food
5225 stores, personal services, and restaurants shall be limited as follows:
5226
- 5227 a. Vehicular ingress and egress for parking lots supporting food stores, personal services, and
5228 restaurants may be directly accessible from a public street. Visible evidence of the
5229 commercial character of food stores, personal services, and restaurants may be observable
5230 from a street outside the park. For food stores, personal services, and restaurants that have
5231 vehicular ingress/egress directly accessible from a public street, or present visible evidence,
5232 observable from a street outside the park, of their commercial character, no certificate of
5233 use shall be issued until a minimum of 20% of the total transient guest sites for the entire
5234 recreational vehicle park have been constructed or installed; and
5235
- 5236 b. The cumulative gross leasable floor area of food stores, personal services, and restaurants
5237 shall not occupy more than 3% of the net area of the park. Not more than 25,000 square
5238 feet of contiguous gross leasable floor area shall be devoted to food stores.
5239
- 5240 5. In the event that a recreational vehicle park fails to meet the minimum required number of
5241 transient guest sites as a result of removal of transient guest sites or conversion to another use,
5242 or if the offering of lodging at transient guest sites is discontinued for one year or more, any
5243 activity that had previously been approved as an amenity incidental to the recreational vehicle
5244 park use shall lose its status as an amenity and shall be treated in the same manner as a
5245 nonconforming use.
5246
- 5247 Q. Prohibitions. The following uses, activities or improvements listed below are prohibited within a
5248 recreational vehicle park:
5249
- 5250 1. Permanent residential use is prohibited, except in an approved caretaker/watchperson
5251 residence.
5252
- 5253 2. Lodging within any structure other than an approved recreational vehicle, camping cabin,
5254 caretaker, or watchperson residence (e.g., tent, mobile home, garage, shed, or agricultural
5255 building) is prohibited within a recreational vehicle park.
5256
- 5257 3. The storage of a recreational vehicle, boat, or accessory trailer during any period when the
5258 owner or lessee of the vehicle is not a registered occupant of a transient guest site is prohibited.
5259 Storage of boats and accessory trailers is prohibited on individual transient guest sites or on
5260 internal roads.
5261

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- 5262 4. The parking of a recreational vehicle, automobile, or truck in an area not designated for parking
5263 is prohibited.
5264
- 5265 5. Drive-thru facilities for restaurants are prohibited.
5266
- 5267 6. Fuel pumps for retail sales of fuel are prohibited.
5268
- 5269 R. Evacuation plan. Prior to issuance of a certificate of use for a recreational vehicle park, the
5270 developer shall provide an emergency response plan, approved by the Fire Chief that requires the
5271 removal of all recreational vehicles in the event of a hurricane. At a minimum, all recreational
5272 vehicles and occupants shall evacuate when notified of a "Hurricane Watch" being issued for the
5273 city. Any amendment by the developer to an approved evacuation plan requires approval by the
5274 Fire Chief.
5275

Section. 5.10.6. Micro cottage Village Development (MCVD).

- 5276
5277
5278 Micro cottage Village Developments (MCVDs) provide a location for City residents who wish to reside on
5279 lots which are much smaller than the typical Cape Coral property. This housing type encourages efficient
5280 use of land, affordability, and energy conservation. Micro cottage housing allows for a higher density
5281 single family development than is normally allowed. This is made possible by smaller home sizes, clustered
5282 home sites, and parking and design standards. These villages shall be developed to ensure that they
5283 provide an attractive, clean option for these residents which also will not have a deleterious effect on
5284 nearby properties.
5285
- 5286 A. Minimum area and density requirements. The minimum allowable area for a MCVD shall be three
5287 acres and the maximum density of micro cottages shall not exceed 8.8 dwelling units per acre. The
5288 minimum lot size for individual lots shall be 5,000 square feet.
5289
- 5290 B. Buffering. Sites adjacent to single family zoning and land use shall provide a 25' buffer along each
5291 abutting perimeter.
5292
- 5293 C. Availability of infrastructure. MCVDs shall be serviced by city utilities.
5294
- 5295 D. Clustering. A MCVD is composed of clusters of micro cottages.
5296
- 5297 1. Minimum units per cluster: 4.
5298
- 5299 2. Maximum units per cluster: 12.
5300
- 5301 E. Common open space. Each cluster of micro cottages shall have common open space and provide a
5302 sense of openness and community for residents. Open space requirements are as follows:
5303
- 5304 1. Each cluster of micro cottages shall have common open space to provide a sense of openness and
5305 community for residents;
5306
- 5307 2. At least 400 square feet per micro cottage of common open space is required for each cluster.

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- 5308
- 5309 3. Each area of common open space shall be in one contiguous and useable piece.
- 5310
- 5311 4. To be considered as part of the minimum open space requirement, an area of common open
- 5312 space must have a minimum dimension of 20 feet on all sides.
- 5313
- 5314 5. The common open space shall be at least 3,000 square feet in area, regardless of the number of
- 5315 units in the cluster.
- 5316
- 5317 6. Required common open space may be divided into no more than two separate areas per cluster.
- 5318
- 5319 7. At least two sides of the common open area shall have micro cottages along its perimeter.
- 5320
- 5321 8. Parking areas, yard setbacks, private open space, and driveways do not qualify as common open
- 5322 space.
- 5323
- 5324 F. Community Buildings. Community buildings are permitted in MCVDs. Community buildings shall be
- 5325 clearly incidental in use and size to dwelling unit and shall be no more than one story.
- 5326
- 5327 G. Ownership. Community buildings, parking areas and common open space shall be owned and
- 5328 maintained commonly by the MCVD residents, through a condominium association, a homeowners’
- 5329 association, or a similar mechanism, and shall not be dedicated to the City.
- 5330
- 5331 H. Size. Micro cottages shall meet the following requirements:
- 5332
- 5333 1. The gross floor area of each micro cottage shall not exceed 1,100 square feet.
- 5334
- 5335 2. At least 25% of the micro cottages in each cluster shall have gross floor area less than 1,000 square
- 5336 feet.
- 5337
- 5338 3. Micro cottage areas that do not count toward the gross floor area or footprint calculations are:
- 5339
- 5340 a. Interior spaces with a ceiling height of six feet or less, such as in a second floor are under the
- 5341 slope of the roof;
- 5342
- 5343 b. Architectural projections—such as bay windows, fireplaces, or utility closets—no greater than
- 5344 24 inches in depth and six feet in width;
- 5345
- 5346 c. Attached unenclosed porches;
- 5347
- 5348 d. Garages or carports;
- 5349
- 5350 4. The footprint of each micro cottage shall not exceed 850 square feet.
- 5351
- 5352 I. Unit Height. The maximum height of a micro cottage shall be 25 feet.
- 5353

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5354 J. Orientation of micro cottages.

5355

5356 1. Each dwelling unit shall be clustered around a common open space. Each unit shall have a primary
5357 entry and covered porch oriented to the common open space.

5358

5359 2. Lots in a MCVD can abut either a street or an alley.

5360

5361 3. Each unit abutting a public street (not including alleys) shall have a façade, secondary entrance,
5362 porch, bay window or other architectural enhancement oriented to the public street.

5363

5364 K. Micro cottage Setbacks. The minimum setbacks for all structures (including micro cottages, parking
5365 structures, and community buildings) in a MCVD are:

5366

5367 1. Ten feet from any public right-of-way.

5368

5369 2. Ten feet from any other structure.

5370

5371 3. Micro cottages shall be no more than 25 feet from the common open area, measured from the
5372 façade of the micro cottage to the nearest delineation of the common open area.

5373

5374 4. No part of any structure in the MCVD (including micro cottages, parking structures, and community
5375 buildings) shall be more than 150 feet, as measured by the shortest clear path on the ground,
5376 from fire department vehicle access.

5377

5378 L. Porches. Micro cottage units shall have covered front porches. The front porch shall be oriented
5379 toward the common open space. Covered porches shall have at least 60 square feet in area.

5380

5381 M. Garages. Garages are not required or encouraged in MCVDs.

5382

5383 N. Parking.

5384

5385 1. Minimum Number of Off-Street Parking Spaces:

Micro cottage	Required Parking
600-800 square feet	1.00 space
800-1,000 square feet	1.5 spaces
1,000-1,100 square feet	2.00 spaces

5386

5387 2. The MCVD shall include additional guest parking. A minimum of .5 guest parking spaces per
5388 dwelling unit, rounded up to the next whole number, shall be provided for each Micro cottage
5389 cluster. Guest parking may be clustered with resident parking; however, the spaces shall include
5390 signs identifying them as reserved for visitors.

5391

5392 3. Parking shall be separated from the common area and public streets by landscaping or
5393 architectural screening. Solid board fencing shall not be allowed as an architectural screen.

5394

5395 4. Parking areas shall be accessed only by a private driveway or a public alley.

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5396
5397 5. The design of garages and carports, including roof lines, shall be similar to and compatible with
5398 that of the dwelling units within the MCVD.

5399
5400 6. Parking areas shall be limited to no more than five contiguous spaces.

5401
5402 O. Walkways.

5403
5404 1. A MCVD shall have sidewalks along all public streets.

5405
5406 2. A system of interior walkways shall connect each micro cottage to each other and to the parking
5407 area, and to the sidewalks abutting any public streets bordering the MCVD.

5408
5409 3. Walkways and sidewalks shall be at least four feet in width.

5410
5411 **Section 5.10.7. Roadside Food and Vegetable Stand.**

5412
5413 Roadside food and vegetable stands shall be subject to the following requirements:

5414
5415 A. Must meet the minimum building setback requirements for the district;

5416
5417 B. May be in operation during daylight hours only;

5418
5419 C. Shall provide a designated parking area at the side or rear of the roadside food and vegetable stand
5420 sufficient to accommodate ten vehicles;

5421
5422 D. Shall be no larger than eight feet by 32 feet in dimensions, and must be structurally sound;

5423
5424 E. Must meet state, county, or local access requirements;

5425
5426 F. May sell fruits, plants, and vegetables only;

5427
5428 G. Must be built with tie downs capable of withstanding 110 mph winds; and

5429
5430 H. Must contain adequate toilet facilities.

5431
5432 **Section 5.10.8. Accessory Parking Lots.**

5433
5434 Accessory parking lots shall meet the following requirements:

5435
5436 A. The proposed parking on RML property shall be used only in connection with an existing use or
5437 structure in the C, CC, and P zoning districts.

5438
5439 B. The parcel shall meet minimum dimensional requirements.

5440

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- 5441 C. The area within the RML zoning district proposed for commercial parking shall be composed of
5442 contiguous lots within that district and owned by the commercial or professional property owner
5443 or corporation served by the parking site.
5444
- 5445 D. A minimum of 40% of the required parking spaces shall be located within a Commercial or
5446 Professional zoning district. The number of required parking spaces shall be determined by Article
5447 6.
5448
- 5449 E. The location of RML areas proposed for parking shall be immediately to the rear, or across any
5450 service alley, and within the extended side yard lot lines of the property that the parking is intended
5451 to serve.
5452
- 5453 F. Driveways from the accessory parking in RML areas to residential streets shall not be permitted.
5454 However, commercial property fronting on Del Prado Boulevard or Santa Barbara Boulevard on one
5455 side and on a single-family residential district, as designated on the adopted Future Land Use Map,
5456 on the opposite side, shall be permitted access for the commercial property to the single-family
5457 residential street in accordance with the City of Cape Coral Engineering Design Standards.
5458
- 5459 G. The driveway shall be included in any traffic impact study for the property to determine the
5460 driveway's impact on the local street and its intersections and if improvements are needed.
5461
- 5462 H. Where necessary for safe and efficient turn movements, the city may restrict certain turn
5463 movements at the driveway accessing the single-family residential street.
5464
- 5465 I. For a commercial property fronting on Del Prado Boulevard on one side and on a single-family
5466 residential district, as designated on the adopted Future Land Use Map, on the opposite side, access
5467 for the commercial property shall be permitted to the single-family residential street only on those
5468 streets which provide access to existing and planned signalized intersections on Del Prado
5469 Boulevard.
5470
- 5471 J. The parking area shall be classified as part of the entire non-residential building site.
5472
- 5473 K. A landscape plan for the commercial parking area proposed in an R-3 district shall be submitted
5474 with the application for a special exception use. Landscape plans shall be drawn to scale, including
5475 dimensions and distances, and shall clearly delineate.
5476
- 5477 1. Existing and proposed parking spaces, or other vehicular use areas, access aisles, driveways,
5478 and ingress and egress points;
5479
- 5480 2. The location and floor area of existing building to be served;
5481
- 5482 3. The source of water supply for plantings and materials to be installed or, if existing, to be used
5483 in accordance with the requirements hereof.
5484
- 5485 4. All parking areas shall be landscaped in accordance with the requirements of Section 5.5.13 of
5486 this Article.

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- 5487
5488 5. There shall be a minimum of seven feet of green area in side setbacks and ten feet of green
5489 area in setbacks from street lot lines which face residential areas.
5490
5491 6. There shall be a continuous undulating 18 inch to three feet high by five feet deep berm of earth
5492 extending along the property facing streets.
5493
5494 I. Lighting. If any parking areas are artificially lighted, they shall be so designed and arranged that
5495 lighting is primarily directed on-site. Such areas shall not be lighted at any time other than during
5496 the same hours that the use to which the parking is appurtenant is open for business, except for
5497 necessary security lighting.
5498
5499 J. Stormwater Management. All parking areas shall incorporate appropriate stormwater quality
5500 design features to be reviewed with the SDP application.

5501
5502 **Section. 5.10.9. Solar Arrays.**

5503
5504 Solar Arrays shall meet the following requirements:

- 5505
5506 A. These facilities may only be permitted in the Agriculture, Institutional, or Industrial zoning districts.
5507
5508 B. Solar Arrays may only be permitted on lots over one acre in size.
5509
5510 C. Must maintain appropriate security fencing and signs for protection.
5511
5512 D. Solar Arrays shall be effectively screened with a fence, landscape material, or a combination thereof,
5513 where visible from an abutting property or right-of-way as determined by the Director.
5514
5515 1. The structures may be screened with an opaque wall or fence, up to the height allowed in that
5516 zoning district.
5517
5518 2. Alternatively, the structures may be screened with shrubs that meet the following requirements:
5519
5520 a. A row of shrubs shall be planted along all sides of the facility for which screening is required.
5521
5522 b. All shrubs required for screening shall be a minimum of 32 inches in height and be in at least
5523 a seven-gallon container size at the time of planting. All shrubs shall be planted at a spacing
5524 of three feet apart as measured on center.
5525
5526 c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be
5527 maintained in good condition as long as the structures requiring screening remain.
5528
5529 d. An adequate combination of the two screening options may be permitted.

5530
5531 **Section 5.10.10. Vehicle Sales, Light.**
5532

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5533 Vehicle Sales, Light must meet the following requirements:

5534

5535 A. The minimum parcel size shall be 2 acres.

5536

5537 B. Vehicle Sales, Light shall be a standalone use only.

5538

5539 C. All display areas must be on a impervious surface such as asphalt or concrete.

5540

5541 D. All repairs must be ancillary and must be conducted within a building.

5542

5543 E. Other than vehicles, no outdoor display of any other items shall be permitted.

5544

5545 **Section 5.10.11. Wireless Communication Facilities**

5546

5547 Wireless Communication Facilities are permitted with the following requirements:

5548

5549 1. Adequate documentation that co-location on an existing approved tower or on an existing
5550 building or structure, has been attempted and is not feasible. Such documentation shall include:

5551

5552 2. The results of a designed service study demonstrating to the satisfaction of the city that the
5553 equipment planned for a proposed communication tower cannot be accommodated on an
5554 existing or approved and un-built structure.

5555

5556 3. The designed service study analysis shall be based upon a search area radius of three-quarters of
5557 a mile minimum distance from the location of the intended WCF or tower, including areas outside
5558 the City of Cape Coral. At the discretion of the city, based on the city's knowledge of existing co-
5559 location opportunities, the city may allow an applicant to provide an affidavit from a professional
5560 radio frequency engineer which establishes the search area diameter for the proposed WCF or
5561 tower location and identifies all other alternatives in the area. Further information may be
5562 required by the city on the ability of the WCF or tower to be accommodated on specific sites
5563 within three-quarters of a mile of the proposed WCF or tower.

5564

5565 4. When co-location is determined by staff to be infeasible, the determination shall be based upon
5566 the results of the designed service study and other evidence provided by the applicant
5567 documenting one or more of the following reasons:

5568

5569 a. Structural limitation. The proposed equipment would exceed the structural capacity of the
5570 existing or approved structure, as documented by a licensed professional engineer, and the
5571 existing or approved structure cannot be reinforced, modified, or replaced to accommodate
5572 the planned or equivalent equipment at a reasonable cost.

5573

5574 b. Interference. The proposed equipment would cause interference or obstruction materially
5575 impacting the usability of other existing or planned equipment at the tower or building as
5576 documented by a qualified professional and the interference or obstruction cannot be
5577 prevented at a reasonable cost.

5578

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- 5579 c. Insufficient height. Existing or approved towers and buildings within the search radius cannot
5580 accommodate the planned equipment at a height necessary to function reasonably as
5581 documented by a licensed, if applicable, professional.
5582
- 5583 d. Lack of space. Evidence from the applicant, verified by a licensed professional, of the lack of
5584 space on existing towers or other structures within the search radius to accommodate the
5585 proposed facility.
5586
- 5587 e. Other factors. Other reasons that make it unfeasible to locate the planned equipment upon
5588 an existing or approved tower or building as documented by a qualified and licensed, if
5589 applicable, professional.
5590
- 5591 f. Technical consultants. The city shall have the right to retain independent technical
5592 consultants and experts that it deems necessary to properly evaluate applications for wireless
5593 telecommunications facilities or towers and to charge reasonable fees as necessary to offset
5594 the cost of such evaluations.
5595

Section. 5.10.12. Wireless Facility Design standards.

5596 In addition to any other applicable requirements provided elsewhere in the Land Development Code, an
5597 application for a communication tower shall include the following:
5598

- 5600
- 5601 A. Fall zone. In the event of a catastrophic failure or collapse, towers shall be designed to collapse within
5602 an engineered fall zone lying wholly within the lot lines of the parcel containing the tower. Such fall
5603 zone shall be certified by a professional engineer, licensed in the State of Florida.
5604
- 5605 B. Tower design for co-location. A proposed tower shall be designed to allow for future rearrangement
5606 of antennas, to provide space for antennas to be mounted at varying elevations, and to accommodate
5607 co-location.
5608
- 5609 C. Monopoles or stealth. All towers shall be monopoles or stealth design.
5610
- 5611 D. Illumination. A tower shall not be artificially lighted except as may be required by federal or state
5612 regulations.
5613
- 5614 E. Surface or finish color. All towers shall be painted or have a non-contrasting finish that minimizes the
5615 visibility of the facility from public view, except where contrasting color is required by federal or state
5616 regulation. In addition, the exterior of support facilities shall be designed to be compatible with the
5617 architectural design prevailing among the structures in the surrounding developed area.
5618
- 5619 F. Sign. The main access gate in the tower shall have affixed to it a sign not to exceed two feet by three
5620 feet in size which displays the owner's or permittee's name and an emergency telephone number.
5621
- 5622 G. Maximum height. The maximum height of towers shall be 100 feet if the tower is designed for one
5623 service provider, 120 feet if the tower is designed to accommodate two service providers, or 140 feet
5624 if the tower is designed to accommodate three or more service providers.

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5625
5626 H. Landscape screening. The accessory components to the tower shall be screened from view by shrubs
5627 maintained at a height of six feet, immediately adjacent to the fence surrounding the facility and
5628 minimum of eight trees planted outside of the shrub buffer
5629

5630 **Section. 5.10.13. Mobile food vendor.**

5631
5632 Mobile food vendors include hot dog carts, mobile food units, and self-sufficient mobile food units. These
5633 types of mobile food vendors are defined in Article 11, Definitions and hereafter referred to as food trucks,
5634 may be permitted on public or private property subject to the following requirements:
5635

5636 A. Mobile hot dog carts, mobile food units, and self-sufficient mobile food units may only be conducted
5637 from 7:00 a.m. to 10:00 p.m. on weekdays and from 7:00 a.m. to 11:00 p.m. on weekends. Mobile
5638 food units and self-sufficient mobile food units shall be removed from the site for at least 24 hours
5639 once each month.

5640 B. For purposes of these requirements, the vending area includes the space taken up by: a portable
5641 stand, vehicle, or trailer, any signs, equipment, merchandise, and any tents, tarpaulins, canopies, or
5642 awnings. Mobile vending areas shall not be in:

5643 1. Driveway aisles, no parking zones, landscaped area, loading areas, or fire lanes; mobile operations
5644 shall not impede the on-site circulation of motor vehicles.

5645 2. Food trucks shall not be set up in more than two required off- street parking space.

5646 3. Food trucks shall not operate on the public right-of-way.

5647
5648 C. Food trucks may operate on vacant, unimproved property only when approved as a special event
5649 pursuant to Section 5.9.10 of this Article.

5650 D. The total space dedicated to the mobile operation and vending area shall not exceed an area of 600
5651 square feet.

5652 E. Food trucks shall be a minimum of 20 feet from the property line of an existing residential use, except
5653 that a mobile food unit may be a minimum of 10 feet from the property line if the residential use is
5654 separated by a six-foot high masonry wall.

5655 F. Alcoholic beverage sales and use of sound amplification devices are prohibited.

5656 G. Electric service connection to an on-site approved outlet is permitted, provided that no wiring or
5657 cables are run beyond the vending area or pose any danger to the patrons.

5658 H. Prior to permitting a food truck to operate on a site, the vendor must submit an application for
5659 operation and the following documents:

5660 1. A site plan or survey indicating the following:
5661
5662
5663
5664
5665
5666
5667
5668
5669
5670

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- 5671
- 5672 a. Location of the individual mobile food unit and associated vending area. Mobile operations
- 5673 shall be located so as to minimize the impacts on adjacent residential uses.
- 5674
- 5675 b. Location of improvements on the site.
- 5676
- 5677 c. Location of on-site parking areas,
- 5678
- 5679 d. Rights-of-way, internal circulation, and ingress and egress.
- 5680
- 5681 e. A letter from the owner of the property indicating that the mobile food vendor has permission
- 5682 to operate from his or her property.
- 5683
- 5684 I. Signs associated with the operation shall be confined to the vehicle, trailer, or cart and one ground
- 5685 sign within 10 feet of the vending area. The ground sign shall be in compliance with the size
- 5686 requirements listed Article 7 and may not be within a right-of-way.
- 5687
- 5688 J. When multiple food trucks plan to be together for an event, a special event permit will be required if
- 5689 the event meets the thresholds listed in Section 5.9.10. of this Article.
- 5690
- 5691 K. Except as otherwise provided in this Code, it is unlawful to conduct mobile vending in any outdoor
- 5692 location without first obtaining a Certificate of Zoning Compliance and a Business Tax Receipt in
- 5693 accordance with the City Code of Ordinance, Article 3 of this Code, and the provisions of this Section.
- 5694
- 5695 L. The vendor must be able to produce for inspection: a copy of a letter or other written communication
- 5696 from the property owner or representative that authorizes the hot dog cart, mobile food unit, or self-
- 5697 sufficient mobile food unit and, for mobile food service operators, a copy of the applicant's mobile
- 5698 food dispensing license issued by the Department of Business and Professional Regulations.
- 5699
- 5700 M. Mobile operations at City or County parks, sports facilities, or similar venue during events shall be
- 5701 exempt from the requirements of this Section but must comply with all other applicable requirements
- 5702 in this code.
- 5703
- 5704 N. Vendors are prohibited from discharging fat, oil, grease, or wastewater into the sanitary sewer
- 5705 system. Waste shall be properly stored and disposed of at an approved disposal facility.
- 5706
- 5707 Mobile vendors, other than hot dog carts, mobile food units, and self-sufficient mobile food units , shall
- 5708 be permitted only in conjunction with a special event or a farmer’s market.
- 5709

5710 **Section. 5.10.14. Model homes.**

- 5711
- 5712 Model Homes shall meet the following requirements.
- 5713
- 5714 A. Model homes are intended to facilitate the sale of the model design, or products similar in design to
- 5715 the model and is not intended to allow the full scope of real estate activities and shall be restricted
- 5716 primarily to the sale and marketing of the model, or products similar to the model. Model homes shall

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5717 be permitted as a temporary, conditional use, not to exceed 10 years, in residential zoning districts
5718 (R1, RE, RML) or within a Planned Development.

5719
5720 B. A model home must meet all of the zoning and building requirements for a residence in that zoning
5721 district as well as the following:

5722
5723 1. Parking. Three off-street vehicular parking spaces, including the garage, shall be provided on the
5724 model site or on an adjacent vacant property.

5725
5726 2. On-site parking. A parking space may be provided in the garage. A handicap parking space is
5727 required and shall count as one of the three required spaces.

5728
5729 3. Off-site parking. Adjacent vacant single-family lot(s) may be used for model home parking. A plan
5730 to provide parking on an adjacent parcel shall require ownership by the same or an affidavit of
5731 authorization from the property owner as well as a surety deposit payable to the City of Cape
5732 Coral to convert the property back to a residential or other permitted use when the structure is
5733 converted or sold. The deposit shall cover the costs associated with the conversion of the parking
5734 lot. The deposit shall be based on no less than 110% of the estimated cost by a professional
5735 engineer licensed in the State of Florida which shall be signed and sealed by the engineer, and
5736 found to be acceptable to the City. Funds and resulting interest shall be returned upon conversion
5737 of the site to a residential or other permitted use, the entire amount if the work is completed by
5738 the applicant, or the remaining funds if the City completes the work.

5739
5740 4. A hedge row of at least 36 inches in height shall be planted and maintained around the vehicular
5741 parking area.

5742
5743 5. On-site or off-site parking shall be a paved or approved impervious surface with appropriate signs
5744 and markings, including handicap parking.

5745
5746 6. Treatment of stormwater runoff will be required for the first inch of runoff from the paved area
5747 associated with the parking lot area only.

5748
5749 7. Model home parking lots require a Limited Site Development Plan approval prior to construction.

5750
5751 B. Handicapped standards shall be met throughout the home, including access per the Florida Building
5752 Code and handrail and grab bar requirements.

5753
5754 C. Garage office. For any garage being used as an office for a model home the applicant must submit the
5755 following:

5756
5757 1. Plan of garage-office facility, including false walls, temporary electrical and plumbing.

5758
5759 2. Plan showing how garage will be returned to its original use.

5760
5761 3. \$10,000.00 refundable surety to ensure that the garage is converted back to the FEMA standards
5762 for single-family home usage.

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- D. Sign standards as defined in Article 7 of this code.

- F. Upon completion of the construction and approval of the unit as a model home, a "temporary certificate of occupancy" will be issued to the owner of the model home to remain open for a period of five years. Extensions beyond this five-year temporary certificate of occupancy may be granted for the structure in the event an extension is approved for the model's permit by the Director of Community Development. The initial approval and maximum extension will allow the use of an individual model home to exist for a cumulative 10 years. The decision to extend the initial permit shall be pursuant to the following considerations:
 - 1. The number of existing model homes within the immediate area of the extension request and impacts of those on the neighborhood.
 - 2. The adequacy of the right(s)-of-way upon which the model home fronts.
 - 3. The character or makeup of the area surrounding the model home.
 - 4. The potential effect of the model home on adjacent and surrounding properties.
 - 5. The existence of complaints relating to that model home.
 - 6. A demonstration of good cause from the applicant why the extension request is needed.
 - 7. Approval as a model home shall be recorded against the title.

Section 5.10.15. Buildings and Construction with outdoor storage and display shall meet the following requirements.

- A. No storage or display shall be in fire lanes or required parking areas.
- B. Materials or equipment that is brought inside a building overnight shall not be considered as display.

Section. 5.10.16. Self-Storage Facility.

Self-storage facilities in the I, C, and CC districts must meet the following conditions:

- A. The facility must be designed so as to screen the interior of the development from all property lines. Screening features may consist of a free-standing wall, wall of a building, or a combination of the two. Free-standing walls used for screening shall be eight feet in height measured from grade.
 - 1. The following materials, either singly or in any combination, are the only materials that may be used to form the wall:
 - a. Concrete block coated with stucco;

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- 5809 b. Textured concrete block;
5810
5811 c. Stone;
5812
5813 d. Brick; or
5814
5815 e. Formed, decorative, or precast concrete.
5816
5817 2. If the wall of a building is used to meet the opaque feature requirement, such wall shall be
5818 surfaced with stucco, brick, stone, textured concrete masonry units, or other concrete surface.
5819 Untreated concrete block is not an acceptable finished material. Building walls used as a
5820 screening feature shall not have doors or windows.
5821

- 5822 B. A landscaped area with a minimum width of 10 feet shall be provided around the perimeter of the
5823 site. Perimeter landscaping shall consist of a minimum of three canopy trees per 100 feet, three
5824 accent trees per 100 feet, and 33 shrubs per 100 feet. Palms trees cannot be used to meet the
5825 minimum planting requirement of this section. All shrubs shall be installed at a minimum height of
5826 32 inches and be in a minimum seven-gallon container at the time of planting.
5827

5828 **Chapter 11. - CONDITIONAL USES**

5829

5830 **Section. 5.11.1. Purpose and applicability.**

5831

5832 A. Purpose and Intent

5833

- 5834 1. To provide standards and criteria for review and approval of specified conditional uses for a
5835 specific site.

5836

- 5837 2. To provide reasonable limitations or special conditions for conditional uses, in order to address,
5838 minimize, or ameliorate potential impacts of the use on surrounding property and for the
5839 protection of the public health, safety, and welfare.

5840

5841 B. General Requirements. Proposed conditional uses must meet the following requirements:

5842

- 5843 1. The conditional use standards identified in Article 4 for the specific zoning district use and
5844 conditional use in question.

5845

- 5846 2. The proposed conditional use will not result in development that is inconsistent with the intended
5847 character of the applicable zoning district.

5848

- 5849 3. A listed conditional use that does not meet the applicable conditional use standards may apply
5850 for approval as a Special Exception.

5851

- 5852 C. Review Criteria. A Conditional Use may be approved by the Director based on criteria identified in
5853 Article 4. These criteria are specific to each conditional use.

5854

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5855 **Section. 5.11.2. Brewpubs.**

5856

5857 Brewpubs in the MXB district must meet the following conditions:

5858

5859 A. The area used for brewing, bottling, and keging of all beverages produced by the establishment shall
5860 not exceed 40 percent of the total floor area of the restaurant, bar, or nightclub, or exceed a total
5861 floor area of 2,500 square feet devoted for brewing, bottling, and keging, whichever is less.

5862

5863 B. An interior floor plan shall be submitted that clearly shows the area of the building that will be devoted
5864 to the brewing, bottling, and keging component of the establishment.

5865

5866 C. No outdoor storage shall be allowed including the use of portable storage units, cargo containers, and
5867 tractor trailers, except as follows: spent or used grain may be placed outdoors for a period not to
5868 exceed 24 hours. The temporary stockpiling for spent or used grain shall be:

5869

5870 1. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the
5871 stockpiled spent grains and the distance of the stockpiled grains from property lines and the
5872 building containing the brewpub;

5873

5874 2. Placed only along the side or rear of the building; and

5875

5876 3. Fully enclosed in containers that are screened behind an opaque wall or fence. The wall or fence
5877 shall have a minimum height of six feet.

5878

5879 **Section. 5.11.3. Attached residential of three-units or more.**

5880

5881 Attached residential structures of three-units or more in the RML, CC, NC, MX, MXB, and SC zoning districts
5882 must meet the following conditions:

5883

5884 A. The number of linearly attached units must be between three and nine.

5885

5886 B. Landscaping shall be provided at a rate of two trees and six shrubs per 2,500 square feet of lot,
5887 rounding up to the next full number.

5888

5889 C. Attached residential developments shall incorporate three of the following design elements into each
5890 dwelling unit:

5891

5892 1. Dwelling entry as the primary façade feature;

5893

5894 2. Garage door recessed from the front façade, a preferred minimum of four feet;

5895

5896 3. Horizontal eaves broken up with gables, projection, and articulation;

5897

5898 4. Projecting eaves and gables, related to building massing;

5899

5900 5. Building massing and roof form which articulate individual unit definition;

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- 5901
5902 6. Offset of four feet where two garage doors are adjacent to each other; or
5903
5904 7. Projections and decorative elements, such as trellises, for visual interest.
5905

5906 **Section. 5.11.4. Multi-family dwellings.**

5907
5908 Multi-family dwellings in the RML, RMM, CC, NC, MXB, MX7 and SC districts must meet the following
5909 conditions:

5910
5911 A. Multi-family units in RML, RMM, CC, NC, MX, and SC require 700 square feet for a one bedroom and
5912 200 square feet for each additional bedroom.

5913
5914 B. Building Modulation and Articulation. All multi-family buildings shall provide a combination of
5915 volumetric and massing modulation and articulations to prevent the construction of ‘big boxes’, but
5916 rather buildings that harmonize their architectural quality in a stylistically pleasant manner. All
5917 buildings shall incorporate the following combined elements from the articulation criteria identified
5918 below.

5919
5920 1. A minimum of three of the following volumetric elements shall be provided:

5921
5922 a. Pitched roof forms, minimum pitch of 4/12, whose sum covers greater than 30% of the
5923 overall roof area;

5924
5925 b. Architectural roof overhangs four feet or greater in depth or cornices 12 inches or greater in
5926 height;

5927
5928 c. Arcades. Arcades may be used as a means of sheltering pedestrian areas, and where
5929 provided, shall connect to entrances;

5930
5931 d. Accent elements such as tower elements, porticos, cupolas, or domes; or

5932
5933 e. A building with frontage 90 feet or less in length shall provide the following minimum
5934 massing articulations:

5935 i. A minimum of fifty percent (50%) of the cumulative frontage of each façade shall be
5936 setback a minimum of five feet from the primary façade and shall be distributed
5937 throughout the building frontage and shall not be provided as a single aggregated
5938 setback; and

5939 ii. A minimum of twenty percent (20%) of each frontage of each facade shall be setback
5940 a minimum of eight feet from the primary façade.

5941
5942 2. A minimum of four of the following architectural elements shall be provided:

5943
5944 a. Stoops on the ground floor and balconies on all floors above the ground floor;

5945
5946 b. Porches on the ground floor;

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- 5947
5948 c. Pilasters, string courses, character lines, or other such means of subdividing the facade;
5949
5950 d. Structural or ornamental details clearly distinct from the primary wall surface, e.g., lintels,
5951 sills, door and window surrounds, decorative panels, etc.;
- 5952
5953 e. Decorative planters or planting areas a minimum of five feet in width, integrated into the
5954 building design; or
5955
5956 f. Masonry in at least two contrasting tones or textures, accomplished by a change in material
5957 or coursing such as brick, natural stone, brick or stone veneer, glass, masonry stucco,
5958 decorative concrete block, decorative concrete panels, tile glazing and framing systems, split
5959 face or fluted concrete masonry, factory glazed concrete masonry units, or architectural pre-
5960 cast concrete.

5961
5962 **Section. 5.11.5. Vehicle Repair, Minor.**

5963
5964 Vehicle Repair, Minor in the C and CC districts must meet the following conditions:

- 5965
5966 A. The number of cars being kept on site, not in a garage bay, shall be limited to three.
5967
5968 B. All cars kept on site for repairs must be visually screened from the right-of-way and adjacent
5969 properties.
5970
5971 C. All repair work shall be performed within the garage.
5972
5973 D. No outside storage of materials or chemicals, all installation to occur within garage.
5974
5975 E. Hours of operation for repair work shall be limited from 7 a.m. to 8 p.m. when adjacent to any
5976 residential development.

5977
5978 **Section. 5.11.6. Outdoor Screened Storage.**

5979
5980 Outdoor Screened Storage in the CC district must meet the following conditions:

- 5981
5982 A. The screening must consist of opaque fence or wall. Chain-link fencing (with or without slats) is
5983 prohibited for screening.
5984
5985 B. The minimum height of the screening shall be 6 feet.
5986
5987 C. The height of the screening shall be tall enough to screen items being stored.
5988
5989 D. All perimeter landscaping shall be on the outside of the screening.
5990
5991 E. The screened area must be used in conjunction with principal use.
5992

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5993 F. The area used for storage must be an improved impervious surface such as asphalt or concrete.

5994

5995 G. No vehicular access to the storage area shall be allowed from a local street.

5996

5997 **Section. 5.11.7. Laboratory – Medical, Research, Testing, and Development.**

5998

5999 Medical, Research, Testing or Development Laboratory Facilities in the NC district must meet the following
6000 conditions:

6001

6002 A. The laboratory shall not produce any exterior impacts such as sound, smoke, or odor.

6003

6004 B. No outside storage of materials shall be permitted.

6005

6006 **Section. 5.11.8. Sporting Facilities, Indoor and Outdoor.**

6007

6008 Sporting Facilities, Indoor and Outdoor in the A district must be in conjunction with an agricultural use
6009 such as riding stadiums etc.

6010

6011 **Section. 5.11.9. Boat Sales**

6012

6013 Boat Sales in the SC district may only be permitted on sites with water frontage and direct access to
6014 Caloosahatchee River.

6015

6016 **Section 5.11.10. Home based businesses**

6017 Home based businesses shall only be allowed as an accessory use to a single-family residential use and
6018 must meet the following conditions:

6019

6020 A. All home based businesses operated in or from a residence shall comply with federal, state, and
6021 county rules and regulations, city license regulations specified herein and any other applicable
6022 ordinances of the City of Cape Coral.

6023

6024 B. No condition shall be permitted which tends to cause or increase the fire hazard to the residence,
6025 such as storage of paints or other flammable materials in excess of normal family use.

6026

6027 C. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display
6028 of materials be visible from the outside of the structure.

6029

6030 D. The appearance of the structure shall in no way be altered for the conduct of the home occupation
6031 within the structure nor shall the conduct be such that the structure may be recognized as serving a
6032 non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations,
6033 audible or visible interference in any radio or television receiver off the premises, or cause fluctuations
6034 in the electric voltage line off the premises.

6035

6036

6037 F. Frontage and access shall be from arterial street.

6038

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- 6039 G. No driveway with ingress or egress to a local street shall be utilized.
- 6040
- 6041 H. Hours of operation shall be 7:00 A.M. until 7:00 p.m.
- 6042
- 6043 I. Employees and customers shall be allowed as long as adequate parking is provided on-site.
- 6044
- 6045 J. No parking shall be allowed on any surrounding parcels.
- 6046
- 6047

Section. 5.11.11. Vehicle fueling stations.

6049
6050 Vehicle fueling stations in the C, N, and SC (along primary streets) districts must meet the following
6051 conditions:

6052
6053 A. General:

- 6054
- 6055 1. All buildings, including pump islands, shall have a 25' setback from all property lines.
- 6056
- 6057 2. In no case shall a lot have less than 100 feet of street frontage.
- 6058
- 6059 3. Underground storage is required for all receptacles for combustible materials in excess of 55
6060 gallons. Such storage shall comply with all building and fire codes and Environmental Protection
6061 Agency standards.
- 6062
- 6063 4. The accumulation and storage of waste petroleum products is forbidden, unless in compliance
6064 with Environmental Protection Agency standards.
- 6065
- 6066 5. Primary services and sales permissible include fueling stations and electric charging stations, and
6067 include only the following accessory uses:
 - 6068
 - 6069 a. Car wash services;
 - 6070
 - 6071 b. Sale of convenience goods; and
 - 6072
 - 6073 c. Accessory fast food services without a drive-through.
 - 6074
- 6075 6. Uses permissible at a gas station do not include body work, straightening of body parts, painting,
6076 welding (other than minor repairs), or other work involving noise, glare, fumes, smoke, or other
6077 characteristics to an extent greater than normally found in vehicle fueling stations. A vehicle
6078 fueling station is not a body shop.
- 6079
- 6080 7. Outside materials storage is not permissible.
- 6081
- 6082 8. Lighting at a gas station shall be designed and installed so as to prevent glare or excessive light
6083 above 0.1 foot-candles on adjacent property. No source of illumination shall be allowed if such

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6084 source of illumination, unshielded, would be visible from a residentially-zoned district to the
6085 extent that it interferes with the residential use of that area.

6086
6087 9. The minimum size parcel shall be 1.25 acres.
6088
6089 10. An eight-foot tall opaque wall constructed of concrete block coated with stucco, textured
6090 concrete block, stone, brick, or concrete (formed, decorative or precast) shall be constructed
6091 between any residential properties and a gas station. The wall shall be constructed within the gas
6092 station property, seven and one-half feet from the property line shared by the gas station and any
6093 adjacent residential property. The wall shall not be within a sight triangle.

6094
6095 a. The residential side of the wall shall be landscaped with shrubs (seven-gallon and 32 inches
6096 at planting) which shall be maintained at a mature height between six and eight feet and 80
6097 percent opacity.

6098
6099 11. Stormwater runoff from the fueling and storage tank loading areas shall be directed to an
6100 oil/gas/water separator prior to entering the surface water treatment area for the project.

6101
6102 B. Appearance:

- 6103
6104 1. All structures on the site shall have a unified architectural theme.
6105
6106 2. Gas station roofs shall be pitched a minimum of 4:12.
6107
6108 3. A minimum of 12-inch overhangs shall be provided
6109
6110 4. Roof and exterior wall surfaces, with the exception of glass areas, shall be nonreflective. Any glass
6111 coating shall not reflect outward.
6112
6113 5. The use of flat steel or metal panels for the exterior walls of the gas station shall be prohibited.
6114
6115 6. The rear and sides of buildings shall be finished with material that in texture and color resembles
6116 the front of the building.
6117
6118 7. Glass windows and doors must make up at least 25 percent of the front elevation and 15 percent
6119 of the side elevations at eye level.
6120
6121 8. Any canopy shall be restricted to a clearance of 14 feet in height and shall be consistent with the
6122 primary structure design. The canopy columns and roof shall be architecturally finished to match
6123 the building.
6124
6125 9. The commercial advertising on the canopy shall be limited to 10 percent of the exterior area of
6126 the canopy and backlighting shall not be permitted on the canopy.
6127
6128 10. Perimeter walls, if utilized, shall be architecturally compatible with the principal structure.
6129

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6130 C. Landscaping:

6131

6132 1. Front yard buffer. An enhanced front yard buffer shall be required for automobile service
6133 stations to limit the visual impact of the use. The following requirements shall be utilized:

6134

6135 2. Area to be landscaped. A strip of land at least 10 feet in depth, abutting the right-of-way and
6136 extending the length of the property except the entrance and exit drives, shall be landscaped.

6137

6138 3. Minimum tree requirements. Palm clusters on the ends of landscape buffers parallel to the gas
6139 pump canopy. The palm clusters shall consist of three palms with a minimum of 13 feet of gray
6140 wood, at planting. One cluster shall be provided for every 30 feet of road frontage;

6141

6142 4. Landscape accents. The use of landscape accents, such as planters and window boxes, shall be
6143 incorporated into the overall landscape design of the building and the site;

6144

6145 5. Other materials. The remainder of the required landscaped area shall be landscaped with grass,
6146 ground cover, or other approved landscaping treatment.

6147

6148 D. Vehicle Fueling Stations in the SC zoning district shall only be allowed with frontage along Del Prado
6149 Boulevard.

6150

6151 **Section. 5.11.12. Religious Institutions.**

6152

6153 Religious Institutions in the R1, RML, RMM, RE, and A districts shall have a minimum size of three acres.

6154

6155

6156

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ARTICLE 6 – PARKING**

CHAPTER 1. PARKING, LOADING, AND DRIVEWAY REQUIREMENTS

- Section 6.1.1.** Purpose and applicability
- Section 6.1.2.** Standards for parking and vehicular use areas
- Section 6.1.3.** Parking, driveway, and vehicular use areas: provision, location, and setbacks
- Section 6.1.4.** Off-street loading facilities
- Section 6.1.5.** Required visibility triangles
- Section 6.1.6.** Common driveways, shared parking, and off-site parking
- Section 6.1.7.** Amount of required parking
- Section 6.1.8.** Miscellaneous parking requirements

CHAPTER 2. TRUCK AND VEHICLE PARKING

- Section 6.2.1.** Parking regulations for Single-family residential zoning districts
- Section 6.2.2.** Parking regulations for property zoned multi-family residential
- Section 6.2.3.** Parking regulations for property zoned industrial and agricultural
- Section 6.2.4.** Hotel and motel parking provisions
- Section 6.2.5.** Boats and boat trailers
- Section 6.2.6.** Vacant lots
- Section 6.2.7.** Vehicles and trailers for sale
- Section 6.2.8.** Exemptions
- Section 6.2.9.** Authority to signpost designated areas

CHAPTER 1. PARKING, LOADING, AND DRIVEWAY REQUIREMENTS.

Section. 6.1.1. Purpose and applicability.

The purpose of this Chapter is to ensure that required off-street space is provided to allow for loading, unloading, and parking on private property by motor vehicles, bicycles, and other allowed vehicles. It is further intended that the design of off-street parking areas ensure safe and efficient traffic circulation, with consideration given to the surrounding street plan, pedestrian movements, and safety. All development and redevelopment shall provide off-street parking in compliance with the standards set forth in this Chapter and the Engineering Design Standards.

Section. 6.1.2. Standards for parking and vehicular use areas.

Parking spaces and drive aisles shall conform to standard designs found in the City of Cape Coral Engineering and Design Standards.

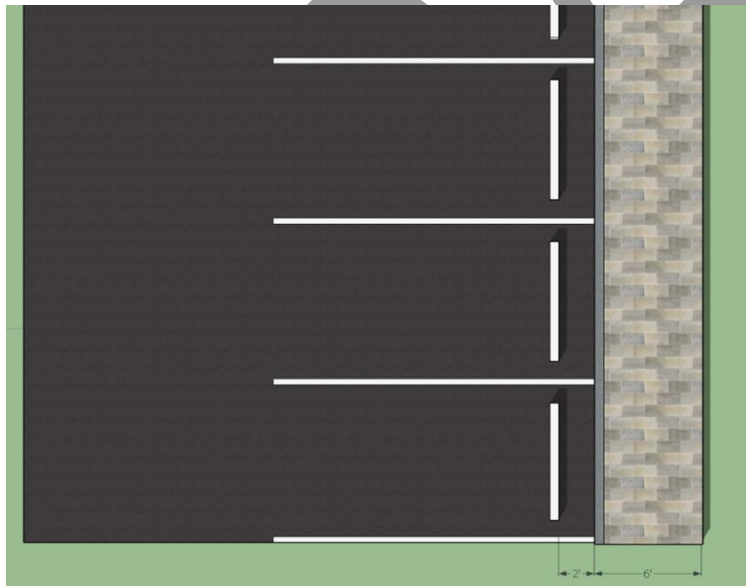
Section. 6.1.3. Parking, driveway, and vehicular use areas: provision, location, and setbacks.

Off-street parking facilities required by this article shall be fully within the property lines of the parcel they are intended to serve unless an alternative location is approved as provided in this Chapter.

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- 45 A. Setbacks and buffering from property lines. Landscape buffers required by Article 6 shall be
46 maintained along the perimeter of parking lots.
47
- 48 B. Driveways. All driveways shall be designed and constructed per the requirements set forth in the
49 Engineering and Design Standards of Cape Coral.
50
- 51 C. Pedestrian Safety. All off-street parking facilities, including drive aisles, travel lanes, and driveways
52 shall be arranged to minimize hazards to pedestrian movement in the immediate area or encroach
53 upon fire lanes, walkways, and visibility triangles. Pedestrians must be protected from exiting a
54 building into vehicular traffic in an emergency. The applicant shall provide a walkway or a protected
55 area with a minimum width of the doorway plus five feet beyond the swing of the door. All exit
56 discharges from buildings shall be protected by permanent means to ensure pedestrian areas are
57 protected from vehicular encroachment.
58
- 59 D. Pedestrian Safety Zones. Within parking areas over 100 spaces for commercial uses, paved pedestrian
60 walkways at least six feet in width shall be provided at 200-foot intervals. Such walkways may be
61 interrupted by necessary drive aisles, but shall include adequate wheel chair ramps, if necessary.
62 Curbs or wheel stops shall be so placed to prevent any portion of the vehicle to encroach upon the
63 pedestrian safety zone. Diagram 6.1.3. illustrates a pedestrian safety zone.
64

65 **Diagram 6.1.3. Pedestrian Safety Zone**



68
69
70 **Section. 6.1.4. Off-street loading facilities.**

71
72 Appropriate and adequate loading facilities shall be required for businesses which receive regular
73 deliveries.
74

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- 75 A. Design and location.
76
77 1. Loading spaces may not be blocked by parking spaces.
78
79 2. Design of the space shall be such that the delivery vehicles can maneuver without damaging
80 landscaped areas.
81
82 3. Loading spaces may be shared by adjacent properties when delivery schedules do not overlap
83 and an access agreement has been completed.
84
85 4. Loading zones may not be placed where they obstruct required fire lanes and access to
86 hydrants.
87
88 5. Loading zones shall be in a place which ensures convenient and safe entry and exit for the users
89 of the loading zone, and the convenience and safety of pedestrians and motorists using the
90 development.
91

92 **Section. 6.1.5. Required visibility triangles.**
93

94 As an aid to allow for safe operation of vehicles, pedestrians, and cyclists in the proximity of intersecting
95 streets, driveways, alleys, and bicycle paths there shall be limitations on the height of fences, walls,
96 gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures as visually depicted in
97 the Cape Coral Engineering and Design Standards and as follows:
98

- 99 A. All landscaping and signs within the visibility triangle shall provide unobstructed visibility between
100 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard.
101
102 B. The property owner shall be responsible for maintaining all landscaping within the visibility triangle.
103
104 C. Landscaping, except required turf and ground cover, shall not be closer than five feet from the edge
105 of any roadway and three feet from the edge of any alley or pavement.
106
107 D. It shall be unlawful for any person to plant or cause to be planted any tree or shrub or to place any
108 structure in the public right-of-way without the necessary permit.
109
110 E. The elevation grades of the public right-of-way adjacent to private property shall not be altered.
111
112 F. The Community Development Director or Public Works Director shall make the final determination
113 regarding visibility triangles.
114

115 **Section. 6.1.6. Common driveways, shared parking, and off-site parking.**
116

- 117 A. Common driveways shall be encouraged and may be required to reduce the number of curb cuts
118 along a right-of-way. Driveways shall be in accordance with the Engineering Design Standards.
119 Driveway access to State and County maintained roadways are regulated by FDOT or Lee County

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120 and require separate permits from the respective agency prior to commencement of construction.
121 Approval of a common driveway will require submittal of a notarized shared access agreement and
122 easement, acceptable to the City, which shall be recorded against the title for each property
123 involved.
124

125 B. Off-site parking and shared parking. In an instance where a business is unable to provide adequate
126 parking on-site, off-site parking may be approved by the Director. Shared parking agreements and
127 off-site parking agreements shall be reviewed as often as is appropriate to ensure compliance and
128 adequacy of all provisions.
129

130 1. Approval of off-site parking shall be dependent upon:
131

132 a. Safe and convenient access to the off-site parking from the business which will be utilizing
133 the off-site parking;
134

135 b. Proof of ownership of the parking lot by the business or a recorded parking agreement
136 recorded against the title of the property to utilize the parking, which may not be eliminated
137 or modified without concurrence by the City;
138

139 c. Evidence that the parking will be available to the business during the times when the
140 parking will be needed; and
141

142 d. Appropriate paving, marking, and lighting of the off-site parking.
143

144 2. In addition to the above requirements, to qualify for shared parking approval one of the
145 following must apply:
146

147 a. It can be proven that the uses in question have peak parking demands during differing times
148 of the day or days of the week; or
149

150 b. A finding is made that there will be a lower demand for parking due to a high proportion of
151 multi-purpose visits. The applicant shall provide documentation to show that the proposed
152 parking for the multiple uses will be adequate. This documentation shall account for all the
153 potential uses allowed in the zoning district on the properties to be served by the shared
154 parking.
155

156 C. Proximity to dedicated city parking areas. Any development within 250 feet, excluding alleys and
157 walkways, of a dedicated city parking area may utilize that area to satisfy off-street parking
158 requirement, provided a sufficient number of improved spaces exist in the city parking area to
159 accommodate the number of spaces otherwise required by this ordinance for such development. If
160 a sufficient number of improved parking spaces do not exist at the time of application, the owner
161 or developer may improve the dedicated city parking area to the extent necessary to provide such
162 sufficient number of improved parking spaces in accordance with the City of Cape Coral Engineering
163 Design Standards. Once the dedicated city parking area has been properly improved and inspected,

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164 the city shall be responsible for all maintenance of the public parking area.

165

166 **Section. 6.1.7. Amount of required parking.**

167

168 A. Generally.

169

170 1. The City shall not approve the construction of a parking lot with more than 110 percent of the
171 parking spaces required in Table 6.1.7.A. This shall not apply to development that have a
172 minimum off-street parking requirement of 50 spaces or less.

173

174 2. Accessible parking spaces shall meet ADA requirements.

175

176 3. Bicycle parking. Permanently placed bicycle parking shall be provide in accordance with
177 Subsection 6.1.7.B and Table 6.1.7.C.

178

179 4. Opportunities for reduction in parking requirements. A developer may request a reduction in
180 parking during the site plan process by using the following methods:

181

182 a. If the Institute of Transportation Engineers (ITE) Reference Manual entitled Parking
183 Generation allows a lesser number of parking spaces for the proposed use or a use of similar
184 characteristics, then the number of parking spaces required for a development may be
185 reduced.

186

187 b. A reduction in the required number of spaces may be allowed if the developer provides the
188 city with credible evidence that the parking needs are actually less than those reflected in
189 the Table of Parking Standards or that the need for off-street parking spaces would be met
190 through alternative means. Such credible evidence may include parking generation studies
191 conducted within the City of Cape Coral or other similarly sized communities.

192

193 **TABLE 6.1.7.A. Required Number of Parking Spaces for Uses.**

194

Uses	Required Parking Spaces
Residential Uses	
Assisted Living Facility (ALF)	One space per four beds plus one space per employee on the largest shift
Community residential facility or home	A minimum of two spaces for up to six residents with one space for every four additional residents
Daycare Center (adult or child, in home or commercial)	A minimum of two spaces for up to five children with one space for every 10 additional children
Dormitories	One space for the first three residents plus one space per employee based on the largest shift
Model home	Three spaces per model home
Residential—mixed-use residential	Sum of unit type plus uses

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Residential—multi-family residential	1.5 spaces for one-bedroom units
	Two spaces for dwelling units with two or more bedrooms
	Developments 10 units or greater shall provide one space for every five units for guest parking
Residential—single-family-detached residential	Two spaces, including space in garage if provided
Residential, Duplex	Two spaces per dwelling unit, including space in garages
Residential—Single-family attached	Two spaces per dwelling
Public and Institutional Uses	
Animal shelter	One space per 400 sq. ft. of gross floor area
Community centers	One space per 250 sq. ft. of gross floor area
Cultural and civic facilities—libraries, museums	One space per 300 sq. ft. of gross floor area
Elementary and middle school educational facility—public or private	One space per classroom plus one space per employee
High school educational facilities—public or private	One space per four students of design capacity plus one space per classroom
Secondary educational facilities—technical, vocational, specialty—non-public	One space per 200 sq. ft. of gross floor area
Government facilities, including administrative, support and service	One space per 300 sq. ft. of gross floor area
Hospital—private, public	One space per 200 sq. ft. of gross floor area
Outdoor Amphitheater	1/4 seats, or 1/80 square feet of seating area ADD
Public parks and recreational facilities	3/acre of land designated for passive recreation + 1/2,000 square feet of playground or picnic area ADD
Sewage lift or pumping station	One space per facility
Solid waste transfer station	One space per employee on largest shift plus one space per facility vehicle
Utilities and related facilities, city or other	One space for unmanned facilities; One space per employee on largest shift at manned facilities
Vehicle Related Commercial Uses	
Car wash	One space per employee on largest shift

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Rental—automobile, truck, and other vehicles	One space per 400 sq. ft. of gross floor area
Gas stations	One space per 300 sq. ft. of gross floor area
Vehicle major or minor repair and parts—mechanical, service, or body (new or used)	One space per 400 sq. ft. of gross floor area plus one space per bay
Vehicle sales—new or used automobiles	One space per 400 sq. ft. of gross floor area
Recreation, Entertainment Uses	
Adult Entertainment Establishment	One space per 100 sq. ft. of gross floor area
Marinas	One space for every two boat slips
Golf course	36 spaces per 9 holes plus one space per 200 sq. ft. of gross floor area
Driving range	One space for every two tees
Golf, miniature	One space per hole
Gun, pistol range, gun clubs, archery clubs—indoor	One space per 250 sq. ft. of gross floor area
Sports fields, basketball courts, racket ball courts, sporting activities—indoor	One space per four seats
Sports fields, basketball courts, racket ball courts, sporting activities—outdoor	20 spaces per field
Indoor Commercial Entertainment	One space per 250 sq. ft. of gross floor area
Restaurant, Food and Beverage Service Uses*	
Bar/lounge	One space per 100 sq. ft. of gross floor area
Brewpub	One space per 100 sq. ft. of gross floor area
Catering Service, no public interface	One space per 400 sq. ft. of gross floor area
Nightclub, Discotheque, Club, Cabarets.	One space per 100 sq. ft. of gross floor area
Restaurant, sit down	One space per 100 sq. ft. of gross floor area plus one space for every four outdoor seats
Restaurant, fast food	One space per 100 sq. ft. of gross floor area
Micro-Brewery or Distillery	One space per employee on the largest shift plus one space per 100 sq. ft. of tasting room area
Places of Assembly Uses*	
Banquet hall	One space per 100 sq. ft. of gross floor area
Place of religious assembly	One space for every four seats

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Private clubs, not public	One space per 100 sq. ft. of gross floor area
Theater (movie, performing arts)	One space for every four seats
Commercial Uses*	
All Retail Stores, other than those listed below	One space per 300 sq. ft. of gross floor area
Wholesale	One space per 400 sq. ft. of gross floor area
Retail—big box, club membership, department, home improvement	One space per 400 sq. ft. of gross floor area
Short Term Lodging	
Camp grounds, RV parks	One space per site plus one space for every 10 additional sites
Hotels, Motels, Resort, Lodging	One space per room plus one space per 400 sq. ft. of gross floor area for all other uses
Transient Housing—shelters	One space for every five beds plus one space for every employee or volunteer
Vacation Rentals	One space per bedroom with a minimum of two spaces
Office Uses*	
Call center	One space per 300 sq. ft. of gross floor area
Office—business, sales, professional, semi-professional services	One space per 300 sq. ft. of gross floor area
Office—medical office/medical clinic	One space per 300 sq. ft. of gross floor area
Service Uses*	
Animal grooming and pet sitting—indoor	One space per 300 sq. ft. of gross floor area
Animal Hospital/Veterinarian clinic	One space per 300 sq. ft. of gross floor area
Animal kennel, boarding	One space per 300 sq. ft. of gross floor area
Blood banks, diagnostic medical treatment centers	One space per 300 sq. ft. of gross floor area
Check cashing, bill payments	One space per 300 sq. ft. of gross floor area
Copy, printing center	One space per 300 sq. ft. of gross floor area
Cosmetic Surgery, beauty clinics	One space per 300 sq. ft. of gross floor area
Customer service center	One space per 300 sq. ft. of gross floor area
Dry cleaning	One space per 300 sq. ft. of gross floor area
Financial institution - banks, credit unions, investment brokerage establishments	One space per 300 sq. ft. of gross floor area
Health club, fitness club	One space per 300 sq. ft. of gross floor area

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Laundromat, self-service	1 per 3 machines and One space per 300 sq. ft. of gross floor area
Massage Therapy, body wrapping	One space per 300 sq. ft. of gross floor area
Package shipping, mail service	One space per 300 sq. ft. of gross floor area
Personal care services	One space per 300 sq. ft. of gross floor area
Repair and service shop—general merchandise	One space per 300 sq. ft. of gross floor area
Self-service storage facility	One space per 10,000 sq. ft. with a minimum of five spaces
Studios—photographic, and instructional	One space per 300 sq. ft. of gross floor area
Tattoo parlor, body piercing	One space per 300 sq. ft. of gross floor area
Other Uses	
Cemetery, mausoleums, crematory	One space for every four seats in an assembly area
Funeral Homes	One space for every four seats in an assembly area
Radio and transmitting station	One space per 400 sq. ft. of gross floor area
Wireless Antennas and support services	One space per facility
Industrial Uses	
Dry cleaning—commercial laundry plant	One space per 1,000 sq. ft. of gross floor area
Equipment and tool rental	One space per 350 sq. ft. of gross floor area plus one space per 1,000 sq. ft. of outdoor rental area
Fireworks, retail	One space per 300 sq. ft. of gross floor area
Flex Space	One space per 300 sq. ft. of gross floor area
Industrial uses—heavy	One space per 350 sq. ft. of gross floor area plus one space for every company vehicle
Industrial uses—light	One space per 350 sq. ft. of gross floor area plus one space for every company vehicle
Laboratory—medical, research, testing	One space per 300 sq. ft. of gross floor area
Mining/extraction, rock quarry	One space per employee
Outdoor Storage, open air storage	One space per employee
Recycling facility, Refuse disposal	1/employee plus 3
Studio for movie, television, music production	One space per 200 sq. ft. of gross floor area
Warehouse	One space per 1,000 sq. ft. of gross floor area
Agricultural Uses	

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Community Garden	Three spaces per acre of gardens
Greenhouses—nurseries, retail	One space per employee plus one space per 300 sq. ft. of gross floor area plus one space per 600 sq. ft. of outdoor sales area
Outdoor storage—agriculture	1/employee plus work vehicles?
Farmer's market	One space per vendor plus one space per 350 sq. ft. of vendor area
Animal Boarding Stables	One space for every six animals boarded
* See below	
*Multiple Occupancy (3 or more units)	One space per 200 sq. ft. of gross floor area

195
196 For facilities having bench or booth seating, one seat shall be considered 24 linear inches of a bench or
197 booth.
198

199 **Table 6.1.7.B. South Cape Parking Requirements.**
200

TABLE SC-5 MINIMUM PARKING SOUTH CAPE DOWNTOWN DISTRICT				
Applicable Lots	Lot Frontage/Lot Area			Lot Area ≥60,000 sq. ft.
	≤75 ft.	>75 ft. but <125 ft.	≥125 ft. but <60,000 sq. ft.	
Minimum Parking (# spaces) (a)				
Residential	1 per unit	1 per unit	1 per unit	1 per unit
Non-residential - restaurant/bar/ brewpub(d)	1/500 sq. ft.	1/400 sq. ft.	1/100 sq. ft.	1/100 sq. ft.
Non-residential - hotel	0.75 per room	0.75 per room	0.75 per room	0.75 per room
Non-residential - other	1/500 sq. ft.	1/400 sq. ft.	1/400 sq. ft.	1/400 sq. ft.
Parking required on site - residential and non-residential (b)	50%(c)	50%	75%	75%
(a) For parking area sites, minimum parking shall be as provided, less parking credits in accordance with § 6.1.8.J.1.b				
(b) Satellite parking shall be provided in accordance with § 6.1.8.K.				
(c) Lots with lot frontage less than or equal to 50 feet shall not be required to provide on-site parking. Satellite parking shall be provided in accordance with § 6.1.8.K.				
(d) The minimum parking standard shall not be applied to the area(s) of the building devoted to brewing, bottling, and kegging activities.				

201
202 B. Bicycle parking. Bicycle parking shall be required for all developments of 20,000 square feet or
203 more, in accordance with Table 6.1.7.B. Bicycle parking shall be adjacent to entrances or in a shaded
204 or covered area when one is available. A parking space shall consist of a place for a bike to be
205 secured in a standing position.

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207
208

Table 6.1.7.C. Bicycle Parking Requirements.

Square Footage of Development	Number of Bicycle Parking Spaces
20,000-50,000	5 spaces
50,001-200,000	10 spaces
200,001 or larger	15 spaces
Multi-family Developments with 16 or more units	1 space/10 units

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210
211
212
213
214

- C. Electric vehicle charging stations. Charging stations for electric vehicles shall be required for all development sites of 200,000 square feet of gross floor area or more. One charging station shall be required for the initial 200,000 square feet of development and an additional charging station shall be provided for each additional 20,000 square feet over that.

215
216

Section. 6.1.8. Miscellaneous parking requirements.

217
218
219

- A. Access to buildings. Parking shall not interfere with ingress-egress doors for stairwells, transformer rooms, elevator machine rooms, trash rooms, or any other use requiring clear access aisles for services.

220
221
222
223
224

- B. Marking and identification. All parking and loading spaces other than for single-family detached and duplex dwellings, shall be marked in accordance with the Engineering Design Standards. Off-street parking facilities not clearly evident from a street or alley shall be identified as to location and purpose.

225
226
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- C. Use of spaces. All off-street parking facilities shall be used solely for the parking of vehicles in operating condition. No automotive repair work except emergency service, no storage of merchandise, and no motor vehicles which are being offered for sale by a business in the development shall be permitted on or within any required off-street parking area.

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- D. Surfacing. All off-street parking (spaces and aisles) and drives connecting such areas with the street, including spaces required for serving single-family detached residences or duplexes, shall be surfaced in accordance with the Engineering Design Standards unless an alternative landscaped area is approved for occasional parking as part of a development approval. All parking surfaces shall be maintained in a condition that is safe and free of potholes.

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- E. Unpaved parking. Clearly identified, non-paved parking areas may be permitted, only in accordance with this Subsection. Unpaved parking, which is graded and covered with sod to provide a surface that is durable, stable, and will also assist in managing stormwater, dust, and erosion may be provided for up to 50% of the off-street parking requirements for the following uses:

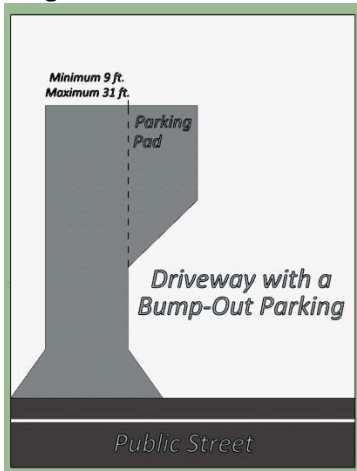
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1. Agriculture or farming uses;

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- 243
- 244 2. Cemeteries;
- 245
- 246 3. Funeral homes, mortuaries, and crematoria;
- 247
- 248 4. Places of worship;
- 249
- 250 5. Religious facilities; or
- 251
- 252 6. Parks and recreation facilities owned by a governmental entity.
- 253
- 254 F. Parking on the unpaved areas shall be prohibited on all parcels other than those specifically allowed
- 255 by this code to utilize grass parking. Where parking occurs on unpaved areas, a violation may be
- 256 issued. Resolution of the violation may include providing additional parking spaces, not to exceed
- 257 the allowed pervious surface requirement for that use. Diagram 6.1.8.A. below, illustrates how
- 258 additional parking may be added through a bump-out at a residential dwelling.
- 259

260 **Diagram 6.1.8.A Residential drive bump-out.**

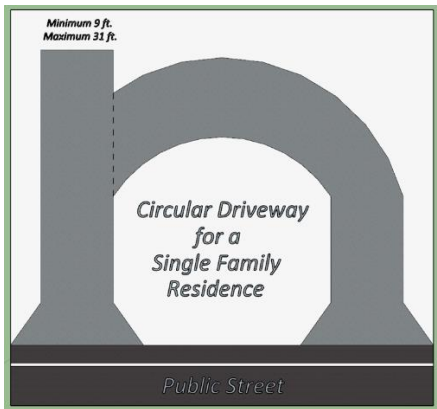


- 261
- 262
- 263 G. Off-street circulation and maneuvering.
- 264
- 265 1. Off-street parking facilities for multi-family, industrial, or commercial developments shall
- 266 provide for on-site vehicle circulation and maneuvering in accordance with the Engineering
- 267 Design Standards. Backing into the street right-of-way shall not be permitted for any uses other
- 268 than single-family detached residences on a local street.
- 269
- 270 2. Single-family detached residences which are on a right-of-way classified as a collector or higher
- 271 classified roadway, and all duplex residences shall be required to install a circular driveway to
- 272 eliminate the necessity to back into the roadway. See diagrams 6.1.8.B. and 6.1.8.C. for circular
- 273 driveway examples.
- 274

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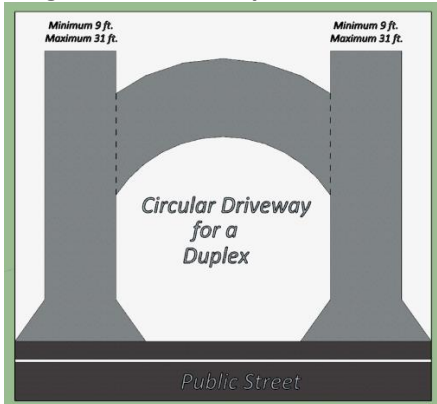
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Diagram 6.1.8.B. Single-family detached circular drive.



278
279
280

Diagram 6.1.8.C. Duplex circular drive.



281
282

H. Drainage. Design and construction of all parking areas shall conform to the requirements of the City of Cape Coral Engineering Design Standards and all applicable South Florida Water Management District requirements for stormwater management. All design and construction shall be such that runoff from the property is intercepted and prevented from entering onto adjoining properties or right-of-way(s) prior to treatment. The developer shall be responsible for obtaining all required permits.

289
290
291

I. Parking along alleys. Parking on sites abutting alleys is allowed provided the following conditions are met:

292

293
294
295

1. The area of the site abutting the alley is needed to meet the minimum parking requirement for the site.

296
297
298

2. The alley is improved or will be improved to allow for the movement of vehicles in the alley along the site.

299
300
301

3. Vehicles can be parked in their entirety on the site. No part of any parked vehicle may extend into the alley right-of-way.

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302 4. All parking spaces shall be striped consistent with those standards appearing in the City
303 Engineering and Design Standards.

304
305 J. Supplemental parking requirements within the South Cape District.

306
307 1. Development may count on-street parking within 500 feet of the property to meet the minimum
308 required off-street parking spaces.

309
310 2. As of December 1, 2005, sites within 25 feet, excluding alleys and walkways, of any of those
311 dedicated city parking areas identified in § 6.1.8.J.1.a, below shall be considered "parking area
312 sites". For parking area sites, the following parking and PILOP regulations shall apply:

313
314 a. Each of the following dedicated city parking areas in the Cape Coral CRA is hereby assigned
315 a parking allocation factor as provided below:

316 **Table 6.1.8.A. Dedicated City Parking Area within South Cape.**

317
318

DEDICATED CITY PARKING AREA			
Dedicated City Parking Area	Surrounding Blocks and Lots		Parking Allocation Factor
	Lots	Block	
Parking Area 1	1 through 24	62	0.000655
Parking Area 2	1 through 17	63A	0.001040
Parking Area 4	1 through 30	63	0.001515
Parking Area 5	1 through 61	64	0.001501
Parking Area 6	1 through 34	356	0.001572
	1 through 30	357	
Parking Area 7	11 through 14	56A	0.001330
	1 through 11	56B	
	1 through 12	56C	
	1 through 10	G	

319
320 b. For purposes of this subsection, when a "parking credit" must be calculated for a parking
321 area site, such parking credit shall be calculated by multiplying the area of the site (in square
322 feet) by the parking allocation factor related to the dedicated city parking area upon which
323 the site is located. This credit shall be deducted from the minimum parking requirements.

324
325 c. When the area of a parking area site changes, the following shall apply:
326 i. In the event the area of a parking area site is increased as the result of the acquisition
327 of property that was not a part of a parking area site as of December 1, 2005, the
328 increase in area that results from such acquisition shall, for purposes of this subsection,
329 be treated in the same manner as property, no part of which comprised a parking area
330 site.

331 ii. In the event the area of a parking area site is increased as the result of the acquisition
332 of property that was a part of a parking area site as of December 1, 2005, any PILOP
333 fees previously paid as the result of the use(s) or structure(s) on the conveyed property

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334 shall be treated in the same manner as any PILOP fees, if any, previously paid by the
335 receiving site provided that the minimum total parking requirements for the conveying
336 site decrease as the result of the conveyance of property. If the minimum total parking
337 requirements for the conveying site do not decrease as the result of the transfer, then
338 any PILOP fees previously paid in regard to the conveying property shall continue to be
339 applied solely to the conveying property and shall not apply toward the parking
340 requirements of the enlarged (receiving) site.

341 iii. In the event the area of a parking area site is decreased as the result of the conveyance
342 of property that was a part of a parking area site as of December 1, 2005, regardless of
343 whether such conveyance is to another parking area site or to a property that is not a
344 parking area site, then any PILOP fees previously paid in regard to the conveying
345 property shall continue to be applied solely to the conveying property and shall not
346 apply toward the parking requirements of the receiving site unless the minimum total
347 parking requirements for the conveying site decrease as the result of the transfer. If the
348 minimum total parking requirements for the conveying site decrease as the result of
349 the transfer, and the conveying site had previously paid PILOP fees pursuant to this
350 subsection, then any such PILOP fees that are unnecessary to defray the decreased total
351 parking requirements of the conveying site shall be applied toward the parking
352 requirements of the receiving site.

353
354 d. A parking area site is altered, for purposes of this subsection, when any use located on the
355 site is changed, any structure located on the site is modified, or the land area of the site is
356 changed. Although a parking area site shall not be required to provide on-site parking, when
357 such site is altered so that the minimum total parking requirement for the site, pursuant to
358 Table 6.1.7.B contained in § 6.1.7.A. is increased, the parking requirement for the site shall
359 be determined in accordance with the following:

360
361 i. Parking area sites that are undeveloped as of December 1, 2005:

362
363 (1) A parking area site that is undeveloped as of December 1, 2005, the area of which
364 has not changed and which is being initially developed after December 1, 2005, shall
365 be required to provide the minimum parking that would be required pursuant to
366 Table 6.1.7.B contained in § 6.1.7.A. less a parking credit calculated pursuant to §
367 6.1.8.J.1.b The site would need to meet the aforesaid parking requirement prior to
368 receiving a certificate of occupancy (for residential uses) or a certificate of use (for
369 non-residential uses). If the land area of the parking area site increases prior to the
370 initial development of the site, then the requirements of this subsection shall apply
371 to the expanded portion of the site (and any structures thereon) as applicable based
372 on factors such as whether it was previously developed or had previously paid PILOP
373 fees.

374
375 (2) After such a parking area site has been initially developed pursuant to this
376 subsection, any further alteration of the site that would result in an increase to the
377 minimum parking requirement for the site, area of the site, shall require that the
378 site provide the minimum parking that would be required pursuant to Table 6.1.7.B
379 contained in § 6.1.7.A. less the parking credit calculated pursuant to § 6.1.8.J.1.b

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380 and any PILOP fee(s) previously paid to offset the parking requirement of the site
381 or any part thereof.
382

383 (3) After the initial development of such a site, if the area of the site increases, any
384 further alteration of the site that would result in an increase to the minimum
385 parking requirement for the site shall require that the site provide the minimum
386 parking that would be required pursuant to Table 6.1.7.B. contained in § 6.1.7.A.
387 less a parking credit (to which the site would be entitled based on its land area at
388 the time of such further alteration) and any PILOP fee(s) previously paid to offset
389 the parking requirement of the site, including any PILOP fee(s) paid with respect to
390 the expanded area of the site, in accordance with § 6.1.8.J.1.c.
391

392 (4) Alternatively, if, after the initial development of such a site, the area of the site
393 decreases, any further alteration of the site that would result in an increase to the
394 minimum parking requirement for the site shall require that the site provide the
395 minimum parking that would be required pursuant to Table 6.1.7.B. less a parking
396 credit and any PILOP fee(s) previously paid to offset the parking requirement of any
397 use(s) or structure(s) located on the area of the site remaining after the decrease(s)
398 in area, in accordance with § 6.1.8.J.1.c.
399

400 ii. With respect to parking area sites that are developed and occupied as of December 1,
401 2005, the following shall apply:
402

403 (1) The first time such a site is altered after December 1, 2005, if the alteration would
404 result in an increase in the minimum parking requirement for the site of more than
405 25% over the amount required for the site for the use(s) and structure(s) located on
406 the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for
407 such site as of that date, the site shall be required to provide the minimum parking
408 that would be required pursuant to Table 6.1.7.B. contained in § 6.1.7.A.. less a
409 parking credit calculated as provided in 6.1.8.J.1.b.

410 (2) Alternatively, if such an alteration of the site would result in an increase in the
411 minimum parking requirement for the site of not more than 25% over the amount
412 required for the site for the use(s) and structure(s) on the site as of December 1,
413 2005, as reflected in the certificate(s) of use in effect for such site as of that date,
414 then the alteration of such site shall require the site to provide the minimum
415 parking required for the site (pursuant to Table 6.1.7.B.) less the amount attributed
416 to the site for the use(s) and structure(s) on the site as of December 1, 2005, as
417 reflected in the certificate(s) of use in effect for the site as of that date. Further
418 alterations to the site that do not, either singularly or cumulatively, increase the
419 minimum parking requirement for the site by more than 25% over the amount
420 required for the site for the use(s) and structure(s) on the site as of December 1,
421 2005, as reflected in the certificate(s) of use in effect for such site as of that date,
422 shall require the site to provide the minimum parking required for the site (pursuant
423 to Table 6.1.7.B.) less the amount attributed to the site for the use(s) and
424 structure(s) on the site as of December 1, 2005, as reflected in the certificate(s) of
425 use in effect for the site as of that date and any PILOP fee(s) previously paid to offset

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426 the parking requirement of the site or any part thereof including, for sites that have
427 increased or decreased in area any PILOP fee(s) applicable pursuant to § 6.1.8.J.1.c.
428 (3) If further alterations to a site, cumulatively, increase the parking requirement for
429 the site by more than 25% over the amount required for the site for the use(s) and
430 structure(s) on the site as of December 1, 2005, as reflected in the certificate(s) of
431 use as of that date (or, for residential uses, the residential occupancy in effect for
432 such site as of that date), then the alteration of such site that would result in the
433 increase by more than 25% shall require the site to provide the minimum parking
434 required for the site (pursuant to Table SC-5) less a parking credit calculated as
435 provided in § 6.1.8.J.1.b, based on the area of the site at the time of the alteration
436 that would result in the more than 25% increase, and any PILOP fee(s) previously
437 paid to offset the parking requirement of the site or any part thereof including, for
438 sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant
439 to § 6.1.8.J.1.c.
440

441 iii. With respect to parking area sites that are developed and unoccupied as of December
442 1, 2005, the following shall apply: The first time such a site is occupied following
443 December 1, 2005, the site shall be required to provide the minimum parking that
444 would be required pursuant to Table 6.1.7.B. contained in § 6.1.7.A. less a parking credit
445 calculated by multiplying the area of the site (in square feet) by the parking allocation
446 factor related to the dedicated city parking area upon which the site is located. The site
447 would need to meet the aforesaid parking requirement prior to receiving, for non-
448 residential uses, a certificate of use and, for residential uses, prior to any residential
449 occupation of the structure. If the land area of the parking area site increases following
450 December 1, 2005, but prior to the occupancy of the site, then the requirements of this
451 subsection shall apply to the expanded portion of the site (and any structures thereon)
452 as applicable based on factors such as whether it was previously developed or had
453 previously paid PILOP fees.
454

455 iv. If the structure(s) on any parking area site are demolished, razed, or relocated to a site
456 other than a parking area site, then any subsequent redevelopment of such parking area
457 site shall require the site to provide the minimum parking required for the site (pursuant
458 to Table 6.1.7.B.) less a parking credit calculated as provided in § 6.1.8.J.1.b, based on
459 the area of the site at the time of the redevelopment, and any PILOP fee(s) previously
460 paid to offset the parking requirement of the site or any part thereof including, for sites
461 that have increased or decreased in area, any PILOP fee(s) applicable pursuant to §
462 6.1.8.J.1.c. After such redevelopment is completed, any alteration(s) to the site shall
463 be treated, for purposes of determining the parking requirements of the site, in the
464 same manner as alteration(s) of any other developed parking area site under this
465 subsection.
466

467 e. With respect to each dedicated city parking area located in the Cape Coral CRA. the City
468 Council shall, by resolution, identify all sites that would be parking area sites regulated by
469 this subsection and also, for all such sites that are developed as of December 1, 2005,
470 identify the minimum parking requirement for the use(s) or structure(s) on the site as of
471 December 1, 2005, as though such sites were within the South Cape Downtown District.
472

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473 K. Satellite parking within the South Cape District. For purposes of this subsection, a satellite parking
474 arrangement exists when the minimum total parking (excluding on-site parking) required for a site
475 is to be provided on a site at a location different from the site which will be served by the parking
476 as required in § 6.1.7.A. When all or part of the minimum total parking (excluding on-site parking)
477 required for a site is to be satisfied by one or more satellite parking arrangements, such satellite
478 parking arrangements shall comply with the requirements of this subsection as follows:

479
480 1. Except as otherwise provided herein, satellite parking shall be located not more than 1,320 feet
481 from a public entrance to the principal building which contains the use associated with such
482 satellite parking, except that no satellite off-street parking area shall be located on parkway or
483 primary street designations or across Del Prado Boulevard or Cape Coral Parkway from the use
484 it is serving. When the site that contains the use(s) to be served by the satellite parking offers
485 valet parking at all times that such use(s) are open to the public so that valets will transport the
486 vehicles of patrons of such use(s) to the satellite parking site(s) and such valet service is
487 documented in an agreement entered into by the city and the owners of the property to be
488 served by the satellite parking and the property offering the satellite parking, then the satellite
489 parking site(s) may be more than 1,320 feet from a public entrance to the principal building
490 containing the use served by such valet parking.

491
492 The aforesaid agreement shall be in addition to the agreement required by § 6.1.8.K.1.4. and
493 shall be recorded in the public records of Lee County at the sole expense of the owner(s) of the
494 property to be served by the valet parking. Upon request by the owner of the property to be
495 served by a proposed satellite parking location, the City may allow satellite parking that does
496 not include valet parking to be located more than 1,320 feet from a public entrance to the
497 principal building which contains the use associated with the proposed satellite parking or to
498 be across Del Prado Boulevard or Cape Coral Parkway from the use it is serving, if the City finds
499 that the proposed satellite parking would not be detrimental to the public health, safety, and
500 welfare of the persons utilizing it. Factors which shall be considered by the City in making this
501 determination include, but are not limited to, the following: the proximity of the proposed
502 satellite parking to a signalized intersection, the availability of pedestrian crosswalks or other
503 pedestrian-oriented features at any intersections and any other locations between the
504 proposed satellite parking and the use(s) to be served by it, whether the satellite parking is to
505 be utilized by employees only or by patrons of the use(s) to be served, and the availability of
506 any complementary or supplementary services to such parking, such as trolley or tram systems
507 that would provide transportation for the public to and from the satellite off-street parking area
508 and the use(s) to be served. If the City approves satellite parking at a distance of more than
509 1,320 feet or across Del Prado Boulevard or Cape Coral Parkway, the City may impose conditions
510 on such satellite parking that would be reasonably designed to mitigate any negative effects
511 from such approval. Examples of such conditions include the requirement that a satellite off-
512 street parking area be clearly identified for only employee parking, the requirement that a
513 pedestrian walkway between the off-street parking area and the use(s) it serves be covered so
514 as to protect pedestrians from the elements, and that any supplementary or complementary
515 services be continued so long as the satellite parking is being used.

516
517 2. The satellite off-street parking area and the site which contains the use associated with such
518 satellite parking shall be shown on a site plan, development plan, or other equivalent plan. The
519 submitted plan shall show the pedestrian connection(s) between the two sites and shall

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520 demonstrate that all pedestrian connections have sidewalks, or other paved walkways,
521 dedicated solely to pedestrians. In addition, the plan shall demonstrate that the distance
522 between the sites is not more than 1,320 feet when measured from a public entrance to the
523 principal building (on the site to be served by the satellite parking) to the closest point on the
524 proposed satellite parking site.

- 525
- 526 3. Satellite parking spaces on the off-site lot shall only be counted if they are above and beyond
527 the minimum parking requirement for uses on the off-site lot.
- 528
- 529 4. The owner of the off-site lot of land (and, the owner of the land intended to be served by such
530 off-site parking, if different than the owner of the lot to be used for parking) shall enter into an
531 agreement with the city, which shall be recorded in the public records of Lee County, Florida,
532 at the expense of the owner of the land intended to be served by the off-site parking.
- 533
- 534 5. The satellite off-street parking area shall never be sold or transferred except in conjunction with
535 the sale of the lot served by the off-site parking facilities unless:
- 536
- 537 a. The lot to be sold or transferred will continue to be used as provided in the off-site parking
538 agreement and the new owner or transferee executes a consent to assume and to be bound
539 by the obligations of the owner of the lot used for parking as provided in the agreement;
- 540
- 541 b. A different lot complying with the all provisions of the City of Cape Coal Code of Ordinances
542 and Land Use and Development Regulations and subject to a recorded off-site parking
543 agreement as specified herein is substituted for the lot of land subject to the off-site parking
544 agreement; or
- 545
- 546 c. The lot being served by the off-site parking no longer requires the parking as evidenced by
547 a written statement executed by the parties executing the off-site parking agreement and
548 as approved by the City. The aforesaid statement shall be recorded in the public records of
549 Lee County at the expense of the owner of the lot formerly being served by the off-site lot.

550

551 **CHAPTER 2. TRUCK AND VEHICLE PARKING**

552

553 **Section 6.2.1 Parking regulations for single-family residential zoning districts (R-1, RE, A).**

- 554
- 555 A. It shall be unlawful for any owner, agent, operator, or person in charge of a commercial vehicle or
556 trailer to park, store, or keep such vehicle or trailer on the pavement or in the swale of any public
557 street within any single-family residential district in the city. Furthermore, it shall be unlawful for
558 any owner of privately owned real property in any residential district in the city to park on, cause
559 to be parked on, or allow to be parked on such property any commercial vehicle or trailer, except
560 as otherwise provided herein.
- 561
- 562 B. The prohibitions of § 6.2.1.A shall not apply to the following:
- 563
- 564 1. Temporary parking of any commercial vehicle or trailer on private property or in the adjoining
565 swale of any public street in a residential district where construction for which a current and
566 valid permit has been issued by the city is underway on the property and the permit is properly

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567 displayed on the premises. Provided that such trailer or commercial vehicle is only on the real
568 property at the time the construction is actually physically occurring. Nothing in this subsection
569 is intended to require a permit where none is otherwise required or to allow a trailer or
570 commercial vehicle to be parked on private property or in the adjoining swale of any public
571 street within a residential district when construction is not actually physically occurring on the
572 private property.

573
574 2. Deliveries by tradespeople or the use of commercial vehicles or trailers in making service calls.

575
576 3. Temporary parking of a commercial vehicle or recreational vehicle while such vehicle is being
577 used by the operator for travel to and from the residential property for personal reasons of a
578 temporary nature such as for a meal or to visit or serve an ill person. Such temporary parking
579 shall not, however, exceed a total of two hours duration during any 24-hour time period.

580
581 4. Emergency parking of a disabled commercial vehicle, recreational vehicle, or trailer. However,
582 any such commercial vehicle, recreational vehicle, boat, or trailer shall be removed from the
583 residential district within 24 hours by wrecker towing or other available means regardless of
584 the nature of the emergency.

585
586 C. Notwithstanding the prohibitions in § 6.2.1.A, any combination of the following motor vehicles or
587 trailers may be parked in single-family residential districts, on a parcel improved with a single-family
588 residence:

589
590 1. Any light van, sports utility vehicle (SUV), pickup truck, jeep, motorcycle, automobile, or similar
591 type of motor vehicle which is not a commercial vehicle. Furthermore, light vans, sports utility
592 vehicles (SUVs), pickup trucks, jeeps, motorcycles, automobiles, or similar types of motor
593 vehicles which would otherwise be considered to be "commercial vehicles" only because
594 commercial lettering has been affixed to them may be parked outside of a permitted garage or
595 carport provided that all commercial lettering has been concealed by a cover of a type that is
596 applied directly to the surface of the motor vehicle or attached to the vehicle in such a manner
597 that the vehicle can be safely driven on the public streets with the cover in place. If more than
598 one such cover is attached to or is located on a vehicle, then all of such covers on or attached
599 to such vehicle shall be the same color. For purposes of this section, covers located so as to
600 impair the vision of the driver of the vehicle or insecurely mounted so as to present a danger of
601 falling off the vehicle while it is being driven shall be presumed to be insufficient to bring the
602 commercial vehicle within the exemption provided by this subsection. Furthermore, this
603 exemption shall not apply to any motor vehicle that is considered to be a "commercial vehicle"
604 under this section by virtue of the nature of its vehicle type and not solely because commercial
605 lettering has been affixed to it regardless of whether such vehicle or any lettering affixed to it
606 has been covered in part or in full of such vehicle is parked outside of the confines of a permitted
607 garage or carport.

608
609 2. Any trailer or motor vehicle described in § 6.2.1.G which is a commercial vehicle, provided that:

610 a. The commercial vehicle or trailer is parked in a permitted garage or carport;

611
612

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- 613 b. When parked in a garage or carport, no part of such commercial vehicle or trailer may
614 project horizontally beyond the roofline of the garage or carport; and
615
616 c. When parked in a carport, such commercial vehicle or trailer is screened on three sides.
617
618 D. No vehicle for human habitation shall be kept or parked on premises zoned for residential purposes
619 or on adjoining public rights-of-way, except when parked entirely within the confines of a garage or
620 carport or in accordance with the following:
621
622 1. Non-resident. Vehicles for human habitation when used for transportation of visitors to this city
623 to visit friends or members of the visitors' family residing in this city may, upon obtaining a
624 permit (for which a charge shall not be made) from the Police Department, be parked upon the
625 premises of the visited family for a period not exceeding ten days. The permit shall be affixed
626 to the vehicle in a conspicuous place on the street side thereof. The City may, for good cause
627 shown, authorize the issuance of a second consecutive free permit not to exceed ten days. An
628 additional permit for the parking of such vehicle will not be issued until after the expiration of
629 15 days after termination of the last prior permit. For purposes of this section, a person who
630 owns or leases property in the City of Cape Coral shall not be deemed to be a "non-resident"
631 when he or she parks a vehicle for human habitation on property that he or she owns or leases
632 even if such person does not "reside" on the subject property.
633
634 2. Resident. When a vehicle for human habitation is owned or leased by the person who also owns
635 or leases the residential property on which such vehicle is to be parked, such vehicle for human
636 habitation may be parked upon the premises of the resident for a period not exceeding 72 hours
637 for loading and cleaning provided that a permit is first obtained from the City Police
638 Department. A vehicle for human habitation may be parked upon the premises of the resident
639 for unloading after a trip for a period of 72 hours provided that a permit is first obtained from
640 the Police Department. There shall be a minimum of a 48-hour interval between the expiration
641 of one permit and the issuance of another. The permit for each such period shall be affixed to
642 the vehicle in a conspicuous place on the street side thereof. The city shall not charge a fee for
643 the permits to park a vehicle for human habitation upon the premises of the resident as
644 required by this section.
645
646 3. Pop-up campers. A pop-up camper may be parked, only in a closed or folded condition, in the
647 rear yard of a residential lot improved with a principal residential building. For purposes of this
648 paragraph, a "pop-up camper" shall consist of a non-motorized trailer which includes, or on
649 which is mounted, a tent-like enclosure (but such enclosure may be made of canvas or similar
650 material, solid materials, or any combination thereof) to be used for camping purposes, which
651 enclosure opens or expands or unfolds to accommodate temporary occupancy and which closes
652 or folds up into itself in such a way as to be unusable for occupancy and to be no more than 55
653 inches in height when measured from ground level.
654
655 E. Parking of passenger cars or sports utility vehicles (SUVs) with commercial advertising signs setting
656 forth the name of the business, its address, business telephone number, and type of business (e.g.,
657 realtor, painter, etc.) thereon in residential areas outside the confines of a garage or carport is
658 permitted so long as the home (residential) address is not shown thereon.
659

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- 660 F. The following are exempt from the provisions of this section:
661
662 1. Commercial vehicles or trailers in actual use or moving directly to or from the location of actual
663 use, which are owned or leased by:
664
665 a. The city for the accomplishment of a municipal purpose;
666
667 b. A contractor or subcontractor under agreement with the city to accomplish a municipal
668 purpose; or
669
670 c. A public utility operating within the city, or a contractor or subcontractor under agreement
671 with such public utility; for the installation, maintenance, adjustment, or repair of or to a
672 public utility facility.
673

674 However, no towing company, or other business entity, or any of its officers, employees, and
675 agents shall be exempt from the provisions of this ordinance solely because the towing
676 company or other business entity has been employed by the city to provide towing or other
677 services.
678

- 679 2. Commercial vehicles owned by or leased by governmental entities, including the city, Lee
680 County, or the State of Florida which are parked in residential districts on a parcel improved
681 with a permitted structure when such vehicles are lawfully in the possession of an authorized
682 agent or employee of the governmental entity. This category shall include police or sheriff's
683 vehicles which are permitted to be driven to residences of authorized employee(s) of such law
684 enforcement entities.
685

686 G. In applying the terms of this section, the following rules of construction shall apply:
687

- 688 1. Any motor vehicle or trailer which is partially built or in the process of conversion shall be
689 included under the most stringent definition that can be applied.
690
691 2. In case of doubt as to the proper classification of a specific vehicle, a determination by the
692 state's Department of Highway Safety and Motor Vehicles shall be controlling. The body
693 description and classification on the motor vehicle certificate of title shall be *prima facie*
694 evidence of such determination.
695

696 **Section 6.2.2 Parking regulations for property zoned multi-family residential.**
697

698 The restrictions for multi-family residential shall be the same as for single-family residential except that
699 the prohibitions contained in § 6.2.1.A shall not apply to the following commercial vehicles when parked
700 on properties zoned multi-family residential:
701

- 702 A. Pickup trucks from which the cargo boxes have been removed;
703
704 B. Pickup trucks or light vans containing commercial rack(s) regardless of whether such rack(s) are
705 visible from the street or from abutting residential property; and
706

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707 C. Light vans, sports utility vehicles (SUVs), pickup trucks, jeeps, motorcycles, automobiles, or similar
708 types of motor vehicles which would otherwise be considered to be "commercial vehicles" only
709 because commercial lettering has been affixed to them.

710

711 **Section 6.2.3 Parking regulations for property zoned industrial and agricultural.**

712

713 Property zoned industrial and agricultural shall have no restrictions placed upon it as to the parking of
714 trucks or unoccupied vehicles for human habitation, except as otherwise regulated within a recreational
715 vehicle park, or as a condition of special exception or a planned unit development.

716

717 **Section 6.2.4 Hotel and motel parking provisions.**

718

719 Hotels and motels are considered business enterprises, therefore, trucks, trailers, buses, and other
720 commercial vehicles, as well as vehicles for human habitation may be parked on the premises of such
721 businesses. Such vehicles must not be parked in streets, alleys, or other rights-of-way.

722

723 **Section 6.2.5 Boats and boat trailers.**

724

725 It shall be unlawful for any person to park, store, keep, maintain, or permit to be parked, stored, kept,
726 or maintained in front or side yard of a single or multi-family residence, or on a vacant lot in a residential
727 area, any boat or empty boat trailer. A boat, a boat on a trailer, or an empty boat trailer may be parked
728 on the rear yard provided the same is not allowed to fall into a state of disrepair. If grass or weeds are
729 allowed to grow around or under it to a height exceeding 12 inches, then it may be declared a nuisance
730 and the owner charged accordingly. An empty boat trailer may be parked at a launching site during the
731 period of time that the boat is launched therefrom for a single voyage and while in the process of
732 loading or unloading the boat or trailer. A boat, empty boat trailer, or a boat on a trailer may be parked
733 entirely within the confines of a garage or carport meeting the requirements of this ordinance.

734

735 **Section 6.2.6 Vacant lots.**

736

737 It shall be unlawful for any person to park, store, keep, maintain at any time, or permit to be parked,
738 stored, kept, or maintained at any time on any unimproved property in any zoning district any motor
739 vehicle, boat, or trailer of any kind, type, or description, including any boat and trailer in combination,
740 except that this prohibition shall not apply to any unimproved property on which temporary parking of
741 such motor vehicles, boats, or trailers has been authorized by the property owner(s), in writing, and
742 approved by the City in association with a special event that has been approved by the City. Throughout
743 this subsection, the term **TRAILER** shall be deemed to mean and include both a boat mounted on a
744 trailer and the trailer itself.

745

746 A. In the event a motor vehicle, boat, or trailer is parked, stored, kept, or maintained on an
747 unimproved property in any zoning district at any time, a City Code Enforcement Officer shall place
748 a written notice of violation on the vehicle, boat, or trailer indicating that it is in violation of this
749 section and that it must be removed within three calendar days from the date of the notice or it
750 will be subject to removal by the city. The Code Enforcement Officer shall make every reasonable
751 attempt to ascertain the owner of the vehicle, boat, or trailer and the owner of the real property,
752 and shall notify such owner(s) with a written notice delivered by mail or personal service at their
753 current address, last known address, or the address appearing on the certificate of title for the

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754 vehicle, boat, or trailer. The notice placed on the vehicle, boat, or trailer and all notices provided to
755 the owners or apparent owners of the vehicle, boat, trailer, and the land shall advise of the possible
756 appeal provided for in the following subsection B.

757
758 B. Within the three-calendar day period specified in the aforesaid notice, the owner of the vehicle,
759 boat, trailer, or the owner of the real property may appeal to a Special Master utilized by the city
760 to conduct hearings concerning violations involving vehicle(s), boat(s), or trailers) parked, stored,
761 kept, or otherwise maintained on vacant real property. The appeal shall be filed at the office of the
762 City Manager, must attach a copy of the notice of violation appealed, and must include the name
763 of the person filing the appeal and an address at which such person may be served notice of the
764 hearing on the appeal. The hearing on the appeal shall be conducted the same as a code
765 enforcement hearing for a case initiated by a Code Enforcement Officer pursuant to §§ 2-
766 85 through 2-92 of the Code of Ordinances of the City of Cape Coral, Florida. The Special Master
767 shall determine the validity of the violation and may for good cause extend the time for compliance
768 or removal. If such an appeal is instituted, no removal of the vehicle, boat, or trailer shall be
769 required until the appeal has been dismissed or finally determined by the Special Master with a
770 finding of a violation.

771
772 C. If no appeal is made or if an appeal is made but dismissed and the vehicle, boat, or trailer remains
773 in violation after the three calendar day period, or if an appeal is resolved with a finding of a
774 violation and the vehicle, boat, or trailer is not removed within whatever time period is allowed by
775 the Special Master, the City Code Enforcement Manager shall cause such vehicle, boat, or trailer to
776 be towed from the property and thereafter stored and disposed of in accordance with applicable
777 state law or city ordinance. The Special Master may also assess fines and costs; the same as for any
778 code enforcement violation.

779
780 The city shall not be responsible for the towing charges resulting from the removal of the vehicle,
781 boat, or trailer from the property. Instead, the owner(s) of the vehicle, boat or trailer shall be
782 responsible for all such charges.

783
784 D. The authorization in this section for the towing of vehicles, boats, or trailers parked, kept, stored,
785 or otherwise maintained on unimproved property shall be construed as supplementary to any other
786 means of enforcement available to the city and shall not be construed so as to negate the authority
787 of the code enforcement Special Master to hear and adjudicate appropriate cases.

788
789 E. The City Manager shall at least annually recruit qualified persons to serve as Special Masters. The
790 City Council shall, on an annual basis, appoint at least one qualified person to serve as the Special
791 Master and at least one qualified person to serve as an alternate Special Master in the event the
792 Special Master is unable to attend a meeting. Applicants for the Special Master position must be
793 attorneys. The appointment(s) shall be in the sole discretion of the City Council. However, any
794 person appointed to the position of Special Master pursuant to this section must be an attorney
795 duly licensed by the Florida Bar Association to practice law in the State of Florida.

796
797 F. Each Special Master shall serve for a term of one year though Special Masters may be reappointed
798 for consecutive one-year terms. Although appointed for one-year terms, Special Masters shall be
799 subject to removal, with or without cause, from their positions at any time during their term by the
800 City Council in its sole discretion. Special masters shall not be considered to be city employees

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801 though, if authorized by the City Council, they may receive compensation for their service and also
802 may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the
803 City Council.
804

805 G. The Special Master shall convene hearings concerning appeals of alleged violations of this section
806 within a reasonable time from the date the appeal request is made. Minutes shall be kept of all
807 hearings by the Special Master and all hearings and proceedings shall be open to the public. The
808 City Manager shall provide clerical and administrative personnel as may be reasonably required by
809 the Special Master for the proper performance of his or her duties.
810

811 H. The Special Master shall proceed to hear the cases on the agenda for that day. If the alleged violator
812 has been duly notified of the hearing, the hearing may proceed in the absence of the named
813 violator. All testimony shall be under oath or affirmation and shall be recorded.
814

815 The Special Master shall take testimony from the Code Enforcement Officer, the alleged violator,
816 and any other witnesses who have personal knowledge concerning the alleged violation.
817 Documentary evidence may be presented in support, of or in defense of the charge. Irrelevant,
818 immaterial, or unduly repetitious evidence shall be excluded. All other evidence of the type
819 commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be
820 admissible, whether or not such evidence would be admissible in the courts of Florida. Hearsay
821 evidence may be introduced and used for supplementing or explaining other evidence, but it shall
822 not be sufficient in itself to support a finding by the Special Master unless it would be admissible
823 over objections in a civil action. Formal rules of evidence shall not apply, but fundamental due
824 process shall be observed and govern said proceedings.
825

826 I. In order to render an order finding the alleged violator guilty and denying the appeal, the Special
827 Master must find that a preponderance of the evidence indicates that the named violator was
828 responsible for the violation as alleged.
829

830 J. At the conclusion of the hearing, the Special Master shall issue an order containing findings of fact,
831 based on evidence of record, and conclusions of law.
832

833 **Section 6.2.7 Vehicles and trailers for sale.**
834

835 It shall be unlawful for any person to park, store, keep, maintain at any time, or permit to be parked,
836 stored, kept, or maintained on any unimproved property in any zoning district, or outside of a
837 completely enclosed building on any improved property in a W, C, CC, P or I zoning district, any motor
838 vehicle or trailer of any kind, type, or description, including any boat mounted on a trailer, which is
839 being displayed for sale, hire, or rental except as provided in subsections I., J. and K. below. Throughout
840 this subsection, the term "trailer" shall be deemed to mean and include both a boat mounted on a
841 trailer and the trailer itself.
842

843 A. In the event a motor vehicle or trailer is displayed for sale, hire. or rental in violation of this
844 subsection .8, City Code Enforcement Officer(s), law enforcement officer(s), or such other city
845 employee(s) as may be designated by the City, are authorized to cause such vehicle or trailer to be
846 immobilized or towed from the property to a garage or other place of safety, and thereafter
847 disposed of in accordance with applicable state law or city ordinance. The city shall not be

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848 responsible for the towing charges resulting from the removal of the vehicle from the property.
849 Instead, the owner(s) of the vehicle shall be responsible for all such charges. Immobilization and
850 towing shall be accomplished in accordance with the following subsections B. through H.

851

852 B. A motor vehicle or trailer parked in violation of this section may be immobilized with a "wheel lock,"
853 "boot," or other suitable device as long as a notice of violation is placed by the Code Enforcement
854 Officer on the vehicle or trailer indicating all of the following:

855

856 1. That the vehicle or trailer is in violation of this section and that it must be removed from the
857 property within ten calendar days from the date of the notice or it will be subject to removal by
858 the city;

859

860 2. That the notice of violation may be appealed as provided in the following subsection D.;

861

862 3. That the wheel lock, boot, or other immobilization device will be removed from the vehicle or
863 trailer upon the posting with the city of a \$200 bond, in the form of cash, certified check, or
864 surety bond; and

865

866 4. The name of the city official or department with which such bond must be posted and the street
867 address thereof.

868

869 C. The Code Enforcement Officer shall make every reasonable attempt to ascertain the owner of the
870 motor vehicle or trailer and the owner of the real property on which it is unlawfully parked, and to
871 provide such owner(s) with a copy of the written notice of violation placed on the vehicle or trailer,
872 such copy to be delivered by mail or personal service at their current address, last known address,
873 or the address appearing on the certificate of title for the vehicle.

874

875 D. Within the ten-calendar day period specified in the aforesaid notice, the owner of the vehicle or
876 trailer or the owner of the real property may appeal to a Special Master appointed under § 6.2.6.E.
877 of this chapter. The appeal shall be filed at the office of the City Manager, must attach a copy of the
878 notice of violation appealed, and must include the name of the person filing the appeal and an
879 address at which such person may be served notice of the hearing on the appeal. The hearing on
880 the appeal shall be conducted the same as a code enforcement hearing for a case initiated by a
881 Code Enforcement Officer pursuant to §§ 2-85 through 2-92 of the Code of Ordinances of the City
882 of Cape Coral, Florida. The Special Master shall determine the validity of the violation and may for
883 good cause extend the time for compliance or removal. If such an appeal is instituted, no removal
884 of the vehicle or trailer shall be required until after said appeal has been dismissed or finally
885 determined by the Special Master with a finding of a violation of this subsection .8.

886

887 E. If no appeal is made or if an appeal is made but dismissed and the vehicle or trailer remains in
888 violation after the ten calendar day period, or if an appeal is resolved with a finding of a violation
889 of this subsection and the vehicle or trailer is not removed within whatever time period is allowed
890 by the Special Master, the City Code Enforcement Manager shall cause such vehicle to be towed
891 from the property and thereafter stored and disposed of in accordance with applicable state law or
892 city ordinance. The Special Master may also assess fines and costs, the same as for any code
893 enforcement violation.

894

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895 The city shall not be responsible for the towing charges resulting from the removal of the vehicle
896 from the property. Instead, the owner(s) of the vehicle shall be responsible for all such charges.
897

898 F. The authorization in this subsection .8 for the towing of vehicles and trailers unlawfully displayed
899 for sale, hire, or rental shall be construed as supplementary to any other means of enforcement
900 available to the city and shall not be construed so as to negate the authority of the Code
901 Enforcement Special Master to hear and adjudicate appropriate cases.
902

903 G. The provisions of § 6.2.6.E. through J. above, regarding Special Masters and Special Master hearings,
904 shall apply equally with regard to this § 6.2.7.
905

906 H. Code Enforcement Officer shall be notified, and the wheel lock, boot or other immobilization device
907 shall, as soon as practicable, be removed from the vehicle or trailer. If no appeal of the violation is
908 timely filed, or if an appeal is filed and is dismissed, the bond shall be forfeited to the city to cover
909 the cost of inspection, notice of violation, and immobilization of the vehicle or trailer. If an appeal
910 is filed and ultimately results in a finding by the Special Master that no violation of this subsection
911 .8 occurred, the bond shall be returned to the person who posted it. If an appeal is filed and
912 ultimately results in a finding by the Special Master that a violation of this subsection .8 occurred,
913 the bond shall be applied to any fines and costs assessed against the violator by the Special Master.
914

915 I. If a motor vehicle being displayed for sale, hire, or rental is parked by the owner outside of a
916 completely enclosed building in a designated parking space on any improved property in a W, C, CC,
917 P or I zoning district, while the owner of the vehicle is attending or participating in activities or is
918 being treated or served by or is shopping at a facility located on such property, the motor vehicle
919 and its owner shall not be in violation of this subsection .8. However, the leaving of any such vehicle
920 on the same property for a period of eight consecutive hours shall create a rebuttable presumption
921 that the owner is not attending or participating in activities or is being treated or served by or is
922 shopping at a facility located on such property and that the motor vehicle and its owner are in
923 violation of this subsection .7.
924

925 J. This subsection .7 shall not apply to any motor vehicle or trailer offered for sale on property
926 developed and used for a licensed business which includes the sale of such vehicles or trailers or to
927 any motor vehicle or trailer while it is being repaired on property developed and used for a licensed
928 business which includes the repair of such vehicles or trailers.
929

930 K. This subsection .7 shall not apply to motor vehicles or trailers offered for sale on any property
931 pursuant to a City Council special event approval.
932

933 **Section 6.2.8 Exemptions.**
934

935 A. The provisions of this section shall not apply to vehicles parked on the premises of churches, clinics,
936 schools, child care facilities, assisted living facilities, public libraries, public buildings, public and club
937 swimming pools, private clubs, golf courses, utilities, hotels and motels, and parks and recreational
938 areas, while the persons transported thereby are attending or participating in activities or being
939 treated or served thereat, nor to buses, trucks or trailers parked at any time in a space prepared or
940 designated therefor on said premises, if such vehicles are used or operated by or for the operation

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941 of the places or institutions designated, except that such vehicles cannot be used for residential
942 purposes.

943
944 B. The provisions of this section shall not apply to vehicles parked on unimproved or vacant lots within
945 the boundaries of the South Cape zoning district, provided the following requirements are met:

946
947 1. The unimproved or vacant property must be zoned for commercial use and must be
948 immediately adjacent to the business premises for which parking is being provided. For
949 purposes of this section, the phrase **IMMEDIATELY ADJACENT** shall mean sharing all or part of
950 a property line with the business premises or directly across a street or alley from the business
951 premises, provided that the width of such street or alley is 50 feet or less and provided that all
952 or part of the unimproved or vacant property lies within an extension of the property lines of
953 the business premises across the street or alley.

954
955 2. If the vacant property which will be utilized for parking is not owned by the same person or
956 entity as the developed commercial property it is intended to serve, the owner of the developed
957 commercial property must have a bona fide lease for the adjacent vacant or unimproved
958 property.

959
960 3. Parking on the vacant or unimproved property shall be limited to only patrons of the adjacent
961 business and only during the hours that such business is in operation. The vacant or unimproved
962 property shall be posted with a sign that states the foregoing two restrictions.

963
964 **Section 6.2.9 Authority to signpost designated areas.**

965
966 The City Manager shall have the authority to post signs designating areas of regulated or restricted
967 parking as provided by F.S. §§ 316.006 and 316.008 (1973) or other applicable laws.

968



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CHAPTER 1. PARKING, LOADING, AND DRIVEWAY REQUIREMENTS

- Section 6.1.1.** Purpose and applicability
- Section 6.1.2.** Standards for parking and vehicular use areas
- Section 6.1.3.** Parking, driveway, and vehicular use areas: provision, location, and setbacks
- Section 6.1.4.** Off-street loading facilities
- Section 6.1.5.** Required visibility triangles
- Section 6.1.6.** Common driveways, shared parking, and off-site parking
- Section 6.1.7.** Amount of required parking
- Section 6.1.8.** Miscellaneous parking requirements

CHAPTER 2. TRUCK AND VEHICLE PARKING

- Section 6.2.1.** Parking regulations for Single-family residential zoning districts
- Section 6.2.2.** Parking area design requirements for duplex dwellings
- Section 6.2.3.** Parking regulations for property zoned industrial and agricultural
- Section 6.2.4.** Hotel and motel parking provisions
- Section 6.2.5.** Boats and boat trailers
- Section 6.2.6.** Vacant lots
- Section 6.2.7.** Vehicles and trailers for sale
- Section 6.2.8.** Exemptions
- Section 6.2.9.** Authority to signpost designated areas

CHAPTER 1. PARKING, LOADING, AND DRIVEWAY REQUIREMENTS.

Section. 6.1.1. Purpose and applicability.

The purpose of this Chapter is to ensure that required off-street space is provided to allow for loading, unloading, and parking on private property by motor vehicles, bicycles, and other allowed vehicles. It is further intended that the design of off-street parking areas ensure safe and efficient traffic circulation, with consideration given to the surrounding street plan, pedestrian movements, and safety. All development and redevelopment shall provide off-street parking in compliance with the standards set forth in this Chapter and the Engineering Design Standards.

Section. 6.1.2. Standards for parking and vehicular use areas.

Parking spaces and drive aisles shall conform to standard designs found in the City of Cape Coral Engineering and Design Standards.

Section. 6.1.3. Parking, driveway, and vehicular use areas: provision, location, and setbacks.

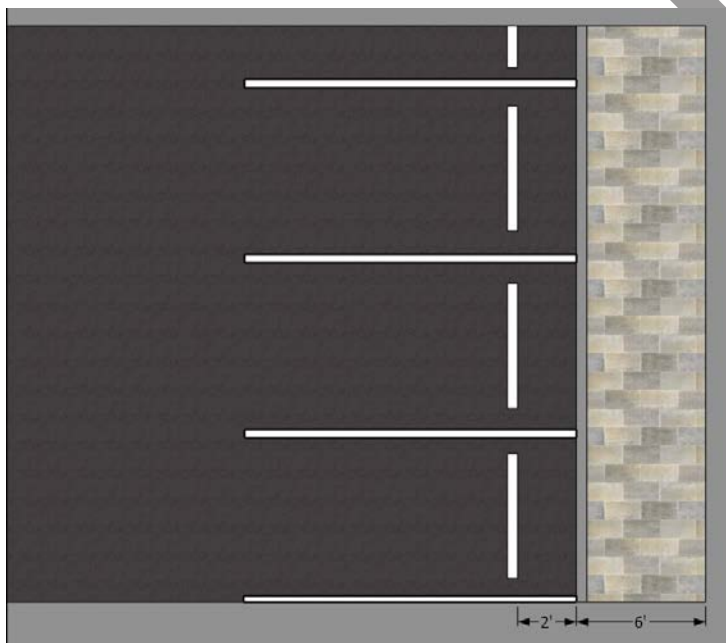
Off-street parking facilities required by this article shall be fully within the property lines of the parcel they are intended to serve unless an alternative location is approved as provided in this Chapter.

- A. Setbacks and buffering from property lines. Landscape buffers required by Article 6 shall be maintained along the perimeter of parking lots.

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- 48 B. Driveways. All driveways shall be designed and constructed per the requirements set forth in the
49 Engineering and Design Standards of Cape Coral.
50
- 51 C. Pedestrian Safety. All off-street parking facilities, including drive aisles, travel lanes, and driveways
52 shall be arranged to minimize hazards to pedestrian movement in the immediate area or encroach
53 upon fire lanes, walkways, and visibility triangles. Pedestrians must be protected from exiting a
54 building into vehicular traffic in an emergency. The applicant shall provide a walkway or a protected
55 area with a minimum width of the doorway plus five feet beyond the swing of the door. All exit
56 discharges from buildings shall be protected by permanent means to ensure pedestrian areas are
57 protected from vehicular encroachment.
58
- 59 D. Pedestrian Safety Zones. Within parking areas over 100 spaces for commercial uses, paved pedestrian
60 walkways at least six feet in width shall be provided at 200-foot intervals. Such walkways may be
61 interrupted by necessary drive aisles, but shall include adequate wheel chair ramps, if necessary.
62 Curbs or wheel stops shall be so placed to prevent any portion of the vehicle to encroach upon the
63 pedestrian safety zone. Diagram 6.1.3. illustrates a pedestrian safety zone.
64

65 **Diagram 6.1.3. Pedestrian Safety Zone**
66



67
68
69 **Section. 6.1.4. Off-street loading facilities.**
70

71 Appropriate and adequate loading facilities shall be required for businesses which receive regular
72 deliveries.

- 73
74 A. Design and location.
75
76 1. Loading spaces may not be blocked by parking spaces.
77

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- 78 2. Design of the space shall be such that the delivery vehicles can maneuver without damaging
79 landscaped areas.
80
- 81 3. Loading spaces may be shared by adjacent properties when delivery schedules do not overlap
82 and an access agreement has been completed.
83
- 84 4. Loading zones may not be placed where they obstruct required fire lanes and access to
85 hydrants.
86
- 87 5. Loading zones shall be in a place which ensures convenient and safe entry and exit for the users
88 of the loading zone, and the convenience and safety of pedestrians and motorists using the
89 development.
90

91 **Section. 6.1.5. Required visibility triangles.**
92

93 As an aid to allow for safe operation of vehicles, pedestrians, and cyclists in the proximity of intersecting
94 streets, driveways, alleys, and bicycle paths there shall be limitations on the height of fences, walls,
95 gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures as visually depicted in
96 the Cape Coral Engineering and Design Standards and as follows:
97

- 98 A. All landscaping and signs within the visibility triangle shall provide unobstructed visibility between
99 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard.
100
- 101 B. The property owner shall be responsible for maintaining all landscaping within the visibility triangle
102 to provide the unobstructed visibility.
103
- 104 C. The Community Development Director or Public Works Director shall make the final determination
105 regarding visibility triangles.
106

107 **Section. 6.1.6. Common driveways, shared parking, and off-site parking.**
108

- 109 A. Common driveways shall be encouraged and may be required to reduce the number of curb cuts
110 along a right-of-way. Driveways shall be in accordance with the Engineering Design Standards.
111 Driveway access to State and County maintained roadways are regulated by FDOT or Lee County
112 and require separate permits from the respective agency prior to commencement of construction.
113 Approval of a common driveway will require submittal of a notarized shared access agreement and
114 easement, acceptable to the City, which shall be recorded against the title for each property
115 involved.
116
- 117 B. Off-site parking and shared parking. In an instance where a business is unable to provide adequate
118 parking on-site, off-site parking may be approved by the Director. Shared parking agreements and
119 off-site parking agreements shall be reviewed as often as is appropriate to ensure compliance and
120 adequacy of all provisions.
121
- 122 1. Approval of off-site parking shall be dependent upon:
123

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- 124 a. Safe and convenient access to the off-site parking from the business which will be utilizing
125 the off-site parking;
126
127 b. Proof of ownership of the parking lot by the business or a recorded parking agreement
128 recorded against the title of the property to utilize the parking, which may not be eliminated
129 or modified without concurrence by the City;
130
131 c. Evidence that the parking will be available to the business during the times when the
132 parking will be needed; and
133
134 d. Appropriate paving, marking, and lighting of the off-site parking.
135
136 2. In addition to the above requirements, to qualify for shared parking approval one of the
137 following must apply:
138
139 a. It can be proven that the uses in question have peak parking demands during differing times
140 of the day or days of the week; or
141
142 b. A finding is made that there will be a lower demand for parking due to a high proportion of
143 multi-purpose visits. The applicant shall provide documentation to show that the proposed
144 parking for the multiple uses will be adequate. This documentation shall account for all the
145 potential uses allowed in the zoning district on the properties to be served by the shared
146 parking.
147
148 C. Proximity to dedicated city parking areas. Any development within 25 feet, excluding alleys and
149 walkways, of a dedicated city parking area may utilize that area to satisfy off-street parking
150 requirement, provided a sufficient number of improved spaces exist in the city parking area to
151 accommodate the number of spaces otherwise required by this ordinance for such development. If
152 a sufficient number of improved parking spaces do not exist at the time of application, the owner
153 or developer may improve the dedicated city parking area to the extent necessary to provide such
154 sufficient number of improved parking spaces in accordance with the City of Cape Coral Engineering
155 Design Standards. Once the dedicated city parking area has been properly improved and inspected,
156 the city shall be responsible for all maintenance of the public parking area.
157

Section. 6.1.7. Amount of required parking.

- 158
159 A. Generally.
160
161
162 1. The City shall not approve the construction of a parking lot with more than 110 percent of the
163 parking spaces required in Table 6.1.7.A. This shall not apply to development that have a
164 minimum off-street parking requirement of 50 spaces or less.
165
166 2. Accessible parking spaces shall meet ADA requirements.
167
168 3. Bicycle parking. Permanently placed bicycle parking shall be provide in accordance with
169 Subsection 6.1.7.B and Table 6.1.7.C.
170

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- 171 4. Opportunities for reduction in parking requirements. A developer may request a reduction in
172 parking during the site plan process by using the following methods:
173
- 174 a. If the Institute of Transportation Engineers (ITE) Reference Manual entitled Parking
175 Generation allows a lesser number of parking spaces for the proposed use or a use of similar
176 characteristics, then the number of parking spaces required for a development may be
177 reduced.
178
- 179 b. A reduction in the required number of spaces may be allowed if the developer provides the
180 city with credible evidence that the parking needs are actually less than those reflected in
181 the Table of Parking Standards or that the need for off-street parking spaces would be met
182 through alternative means. Such credible evidence may include parking generation studies
183 conducted within the City of Cape Coral or other similarly sized communities.
184

185 **TABLE 6.1.7.A. Required Number of Parking Spaces for Uses.**
186

Uses	Required Parking Spaces
Residential Uses	
Assisted Living Facility (ALF)	One space per four beds plus one space per employee on the largest shift
Community residential facility or home	A minimum of two spaces for up to six residents with one space for every four additional residents
Daycare Center (adult or child, in home or commercial)	A minimum of two spaces for up to five children with one space for every 10 additional children
Dormitories	One space for the first three residents plus one space per employee based on the largest shift
Model home	Three spaces per model home
Residential—mixed-use residential	Sum of unit type plus uses
Residential—multi-family residential	1.5 spaces for one-bedroom units
	Two spaces for dwelling units with two or more bedrooms
	Developments 30 units or greater shall provide one space for every five units for guest parking
Residential—single-family-detached residential	Two spaces, including space in garage if provided
Residential, Duplex	Two spaces per dwelling unit, including space in garages
Residential—Single-family attached	Two spaces per dwelling
Public and Institutional Uses	
Animal shelter	One space per 400 sq. ft. of gross floor area
Community centers	One space per 250 sq. ft. of gross floor area

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Cultural and civic facilities—libraries, museums	One space per 300 sq. ft. of gross floor area
Elementary and middle school educational facility—public or private	One space per classroom plus one space per employee
High school educational facilities—public or private	One space per four students of design capacity plus one space per classroom
Secondary educational facilities—technical, vocational, specialty—non-public	One space per 200 sq. ft. of gross floor area
Government facilities, including administrative, support and service	One space per 300 sq. ft. of gross floor area
Hospital—private, public	One space per 200 sq. ft. of gross floor area
Outdoor Amphitheater	1/4 seats, or 1/80 square feet of seating area ADD
Public parks and recreational facilities	3/acre of land designated for passive recreation + 1/2,000 square feet of playground or picnic area ADD
Sewage lift or pumping station	One space per facility
Solid waste transfer station	One space per employee on largest shift plus one space per facility vehicle
Utilities and related facilities, city or other	One space for unmanned facilities; One space per employee on largest shift at manned facilities
Vehicle Related Commercial Uses	
Car wash	One space per employee on largest shift
Rental—automobile, truck, and other vehicles	One space per 400 sq. ft. of gross floor area
Gas stations	One space per 300 sq. ft. of gross floor area
Vehicle major or minor repair and parts—mechanical, service, or body (new or used)	One space per 400 sq. ft. of gross floor area plus one space per bay
Vehicle sales—new or used automobiles	One space per 400 sq. ft. of gross floor area
Recreation, Entertainment Uses	
Sexually Oriented Business	One space per 100 sq. ft. of gross floor area
Marinas	One space for every two boat slips
Golf course	36 spaces per 9 holes plus one space per 200 sq. ft. of gross floor area
Driving range	One space for every two tees
Golf, miniature	One space per hole

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Gun, pistol range, gun clubs, archery clubs—indoor	One space per 250 sq. ft. of gross floor area
Sports fields, basketball courts, racket ball courts, sporting activities—indoor	One space per four seats
Sports fields, basketball courts, racket ball courts, sporting activities—outdoor	20 spaces per field
Indoor Commercial Entertainment	One space per 250 sq. ft. of gross floor area
Restaurant, Food and Beverage Service Uses*	
Bar/lounge	One space per 100 sq. ft. of gross floor area
Brewpub	One space per 100 sq. ft. of gross floor area
Catering Service, no public interface	One space per 400 sq. ft. of gross floor area
Nightclub, Discotheque, Club, Cabarets.	One space per 100 sq. ft. of gross floor area
Restaurant, sit down	One space per 100 sq. ft. of gross floor area plus one space for every four outdoor seats
Restaurant, fast food	One space per 100 sq. ft. of gross floor area
Micro-Brewery or Distillery	One space per employee on the largest shift plus one space per 100 sq. ft. of tasting room area
Places of Assembly Uses*	
Banquet hall	One space per 100 sq. ft. of gross floor area
Place of religious assembly	One space for every four seats
Private clubs, not public	One space per 100 sq. ft. of gross floor area
Theater (movie, performing arts)	One space for every four seats
Commercial Uses*	
All Retail Stores, other than those listed below	One space per 300 sq. ft. of gross floor area
Wholesale	One space per 400 sq. ft. of gross floor area
Retail—big box, club membership, department, home improvement	One space per 400 sq. ft. of gross floor area
Short Term Lodging	
Camp grounds, RV parks	One space per site plus one space for every 10 additional sites
Hotels, Motels, Resort, Lodging	One space per room plus one space per 400 sq. ft. of gross floor area for all other uses
Transient Housing—shelters	One space for every five beds plus one space for every employee or volunteer
Office Uses*	
Call center	One space per 300 sq. ft. of gross floor area

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Office—business, sales, professional, semi-professional services	One space per 300 sq. ft. of gross floor area
Office—medical office/medical clinic	One space per 300 sq. ft. of gross floor area
Service Uses*	
Animal grooming and pet sitting—indoor	One space per 300 sq. ft. of gross floor area
Animal Hospital/Veterinarian clinic	One space per 300 sq. ft. of gross floor area
Animal kennel, boarding	One space per 300 sq. ft. of gross floor area
Blood banks, diagnostic medical treatment centers	One space per 300 sq. ft. of gross floor area
Check cashing, bill payments	One space per 300 sq. ft. of gross floor area
Copy, printing center	One space per 300 sq. ft. of gross floor area
Cosmetic Surgery, beauty clinics	One space per 300 sq. ft. of gross floor area
Customer service center	One space per 300 sq. ft. of gross floor area
Dry cleaning	One space per 300 sq. ft. of gross floor area
Financial institution - banks, credit unions, investment brokerage establishments	One space per 300 sq. ft. of gross floor area
Health club, fitness club	One space per 300 sq. ft. of gross floor area
Laundromat, self-service	1 per 3 machines and One space per 300 sq. ft. of gross floor area
Massage Therapy, body wrapping	One space per 300 sq. ft. of gross floor area
Package shipping, mail service	One space per 300 sq. ft. of gross floor area
Personal care services	One space per 300 sq. ft. of gross floor area
Repair and service shop—general merchandise	One space per 300 sq. ft. of gross floor area
Self-service storage facility	One space per 10,000 sq. ft. with a minimum of five spaces
Studios—photographic, and instructional	One space per 300 sq. ft. of gross floor area
Tattoo parlor, body piercing	One space per 300 sq. ft. of gross floor area
Other Uses	
Cemetery, mausoleums, crematory	One space for every four seats in an assembly area
Funeral Homes	One space for every four seats in an assembly area
Radio and transmitting station	One space per 400 sq. ft. of gross floor area
Wireless Antennas and support services	One space per facility
Industrial Uses	
Dry cleaning—commercial laundry plant	One space per 1,000 sq. ft. of gross floor area

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Equipment and tool rental	One space per 350 sq. ft. of gross floor area plus one space per 1,000 sq. ft. of outdoor rental area
Fireworks, retail	One space per 300 sq. ft. of gross floor area
Flex Space	One space per 300 sq. ft. of gross floor area
Industrial uses—heavy	One space per 350 sq. ft. of gross floor area plus one space for every company vehicle
Industrial uses—light	One space per 350 sq. ft. of gross floor area plus one space for every company vehicle
Laboratory—medical, research, testing	One space per 300 sq. ft. of gross floor area
Mining/extraction, rock quarry	One space per employee
Outdoor Storage, open air storage	One space per employee
Recycling facility, Refuse disposal	1/employee plus 3
Studio for movie, television, music production	One space per 200 sq. ft. of gross floor area
Warehouse	One space per 1,000 sq. ft. of gross floor area
Agricultural Uses	
Community Garden	Three spaces per acre of gardens
Greenhouses—nurseries, retail	One space per employee plus one space per 300 sq. ft. of gross floor area plus one space per 600 sq. ft. of outdoor sales area
Outdoor storage—agriculture	1/employee plus work vehicles?
Farmer's market	One space per vendor plus one space per 350 sq. ft. of vendor area
Animal Boarding Stables	One space for every six animals boarded
* See below	
*Multiple Occupancy (3 or more units)	One space per 200 sq. ft. of gross floor area

187
188 For facilities having bench or booth seating, one seat shall be considered 24 linear inches of a bench or
189 booth.
190

191 **Table 6.1.7.B. South Cape Parking Requirements.**
192

TABLE SC-5 MINIMUM PARKING SOUTH CAPE DOWNTOWN DISTRICT				
Applicable Lots	Lot Frontage/Lot Area			Lot Area
	≤75 ft.	>75 ft. but <125 ft.	≥125 ft. but <60,000 sq. ft.	≥60,000 sq. ft.
Minimum Parking (# spaces) (a)				
Residential	1 per unit	1 per unit	1 per unit	1 per unit

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Non-residential - restaurant/bar/brewpub(d)	1/500 sq. ft.	1/400 sq. ft.	1/100 sq. ft.	1/100 sq. ft.
Non-residential - hotel	0.75 per room	0.75 per room	0.75 per room	0.75 per room
Non-residential - other	1/500 sq. ft.	1/400 sq. ft.	1/400 sq. ft.	1/400 sq. ft.
Parking required on site - residential and non-residential (b)	50%(c)	50%	75%	75%
(a) For parking area sites, minimum parking shall be as provided, less parking credits in accordance with § 6.1.8.J.1.b				
(b) Satellite parking shall be provided in accordance with § 6.1.8.K.				
(c) Lots with lot frontage less than or equal to 50 feet shall not be required to provide on-site parking. Satellite parking shall be provided in accordance with § 6.1.8.K.				
(d) The minimum parking standard shall not be applied to the area(s) of the building devoted to brewing, bottling, and kegging activities.				

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- B. Bicycle parking. Bicycle parking shall be required for all developments of 20,000 square feet or more, in accordance with Table 6.1.7.B. Bicycle parking shall be adjacent to entrances or in a shaded or covered area when one is available. A parking space shall consist of a place for a bike to be secured in a standing position.

Table 6.1.7.C. Bicycle Parking Requirements.

Square Footage of Development	Number of Bicycle Parking Spaces
20,000-50,000	5 spaces
50,001-200,000	10 spaces
200,001 or larger	15 spaces
Multi-family Developments with 16 or more units	1 space/10 units

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- C. Electric vehicle charging stations. Charging stations for electric vehicles shall be required for all development sites of 200,000 square feet of gross floor area or more. One charging station shall be required for the initial 200,000 square feet of development and an additional charging station shall be provided for each additional 20,000 square feet over that.

Section. 6.1.8. Miscellaneous parking requirements.

- A. Access to buildings. Parking shall not interfere with ingress-egress doors for stairwells, transformer rooms, elevator machine rooms, trash rooms, or any other use requiring clear access aisles for services.
- B. Marking and identification. All parking and loading spaces other than for single-family detached and duplex dwellings, shall be marked in accordance with the Engineering Design Standards. Off-street parking facilities not clearly evident from a street or alley shall be identified as to location and purpose. Marking and curb stops for duplex dwelling parking areas shall be marked in accordance with the design requirements shown in Section 6.2.2.

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- C. Use of spaces. All off-street parking facilities shall be used solely for the parking of vehicles in operating condition. No automotive repair work except emergency service, no storage of merchandise, and no motor vehicles which are being offered for sale by a business in the development shall be permitted on or within any required off-street parking area.

- D. Surfacing. All off-street parking (spaces and aisles) and drives connecting such areas with the street, including spaces required for serving single-family detached residences or duplexes, shall be surfaced in accordance with the Engineering Design Standards unless an alternative landscaped area is approved for occasional parking as part of a development approval. All parking surfaces shall be maintained in a condition that is safe and free of potholes.

- E. Unpaved parking. Clearly identified, non-paved parking areas may be permitted, only in accordance with this Subsection. Unpaved parking, which is graded and covered with sod to provide a surface that is durable, stable, and will also assist in managing stormwater, dust, and erosion may be provided for up to 50% of the off-street parking requirements for the following uses:
 - 1. Agriculture or farming uses;
 - 2. Cemeteries;
 - 3. Funeral homes, mortuaries, and crematoria;
 - 4. Places of worship;
 - 5. Religious facilities; or
 - 6. Parks and recreation facilities owned by a governmental entity.

- F. Parking on unpaved areas shall be prohibited on all parcels other than those specifically allowed by this code to utilize grass parking. Where parking occurs on unpaved areas, a violation may be issued. Resolution of the violation may include providing additional parking spaces, not to exceed the allowed pervious surface requirement for that use.

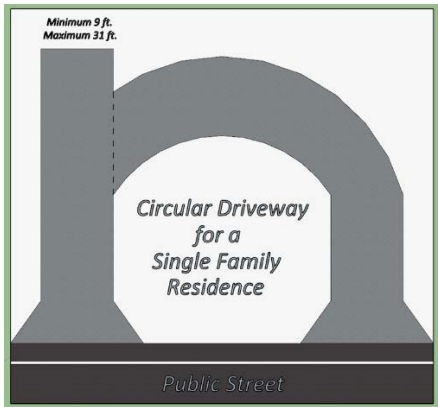
- G. Off-street circulation and maneuvering.
 - 1. Off-street parking facilities for multi-family, industrial, or commercial developments shall provide for on-site vehicle circulation and maneuvering in accordance with the Engineering Design Standards. Backing into the street right-of-way shall not be permitted for any uses other than single-family detached residences on a local street.

 - 2. Single-family detached residences which are on a right-of-way classified as a collector or higher classified roadway, and all duplex residences shall be required to install a circular driveway to eliminate the necessity to back into the roadway. See diagrams 6.1.8.A for the typical circular driveway example.

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Diagram 6.1.8.A. Single-family detached circular drive.



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H. Drainage. Design and construction of all parking areas shall conform to the requirements of the City of Cape Coral Engineering Design Standards and all applicable South Florida Water Management District requirements for stormwater management. All design and construction shall be such that runoff from the property is intercepted and prevented from entering onto adjoining properties or right-of-way(s) prior to treatment. The developer shall be responsible for obtaining all required permits.

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I. Parking along alleys. Parking on sites abutting alleys is allowed provided the following conditions are met:

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1. The area of the site abutting the alley is needed to meet the minimum parking requirement for the site.

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282

2. The alley is improved or will be improved to allow for the movement of vehicles in the alley along the site.

283

284

285

3. No portion of a parking space shall be closer than 3' from the platted alley. Vehicles can be parked in their entirety on the site. No part of any parked vehicle may extend into the alley right-of-way.

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4. All parking spaces shall be striped consistent with those standards appearing in the City Engineering and Design Standards.

289

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291

5. The minimum clear aisle width behind parking spaces adjacent to alleys shall be the same as the aisle widths required by the Engineering Design Standards for the specific parking space orientation. An additional setback for the parking space from the alley may be required to provide adequate aisle width.

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J. Supplemental parking requirements within the South Cape District.

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1. Development may count on-street parking within 500 feet of the property to meet the minimum required off-street parking spaces.

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301 2. As of December 1, 2005, sites within 25 feet, excluding alleys and walkways, of any of those
302 dedicated city parking areas identified in § 6.1.8.J.1.a, below shall be considered "parking area
303 sites". For parking area sites, the following parking and PILOP regulations shall apply:
304

305 a. Each of the following dedicated city parking areas in the Cape Coral CRA is hereby assigned
306 a parking allocation factor as provided below:
307

Table 6.1.8.A. Dedicated City Parking Area within South Cape.

DEDICATED CITY PARKING AREA			
Dedicated City Parking Area	Surrounding Blocks and Lots		Parking Allocation Factor
	Lots	Block	
Parking Area 1	1 through 24	62	0.000655
Parking Area 2	1 through 17	63A	0.001040
Parking Area 4	1 through 30	63	0.001515
Parking Area 5	1 through 61	64	0.001501
Parking Area 6	1 through 34	356	0.001572
	1 through 30	357	
Parking Area 7	11 through 14	56A	0.001330
	1 through 11	56B	
	1 through 12	56C	
	1 through 10	G	

310
311 b. For purposes of this subsection, when a "parking credit" must be calculated for a parking
312 area site, such parking credit shall be calculated by multiplying the area of the site (in square
313 feet) by the parking allocation factor related to the dedicated city parking area upon which
314 the site is located. This credit shall be deducted from the minimum parking requirements.
315

316 c. When the area of a parking area site changes, the following shall apply:
317 i. In the event the area of a parking area site is increased as the result of the acquisition
318 of property that was not a part of a parking area site as of December 1, 2005, the
319 increase in area that results from such acquisition shall, for purposes of this subsection,
320 be treated in the same manner as property, no part of which comprised a parking area
321 site.
322 ii. In the event the area of a parking area site is increased as the result of the acquisition
323 of property that was a part of a parking area site as of December 1, 2005, any PILOP
324 fees previously paid as the result of the use(s) or structure(s) on the conveyed property
325 shall be treated in the same manner as any PILOP fees, if any, previously paid by the
326 receiving site provided that the minimum total parking requirements for the conveying
327 site decrease as the result of the conveyance of property. If the minimum total parking
328 requirements for the conveying site do not decrease as the result of the transfer, then
329 any PILOP fees previously paid in regard to the conveying property shall continue to be
330 applied solely to the conveying property and shall not apply toward the parking
331 requirements of the enlarged (receiving) site.

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- 332 iii. In the event the area of a parking area site is decreased as the result of the conveyance
333 of property that was a part of a parking area site as of December 1, 2005, regardless of
334 whether such conveyance is to another parking area site or to a property that is not a
335 parking area site, then any PILOP fees previously paid in regard to the conveying
336 property shall continue to be applied solely to the conveying property and shall not
337 apply toward the parking requirements of the receiving site unless the minimum total
338 parking requirements for the conveying site decrease as the result of the transfer. If the
339 minimum total parking requirements for the conveying site decrease as the result of
340 the transfer, and the conveying site had previously paid PILOP fees pursuant to this
341 subsection, then any such PILOP fees that are unnecessary to defray the decreased total
342 parking requirements of the conveying site shall be applied toward the parking
343 requirements of the receiving site.
344
- 345 d. A parking area site is altered, for purposes of this subsection, when any use located on the
346 site is changed, any structure located on the site is modified, or the land area of the site is
347 changed. Although a parking area site shall not be required to provide on-site parking, when
348 such site is altered so that the minimum total parking requirement for the site, pursuant to
349 Table 6.1.7.B contained in § 6.1.7.A. is increased, the parking requirement for the site shall
350 be determined in accordance with the following:
351
- 352 i. Parking area sites that are undeveloped as of December 1, 2005:
353
- 354 (1) A parking area site that is undeveloped as of December 1, 2005, the area of which
355 has not changed and which is being initially developed after December 1, 2005, shall
356 be required to provide the minimum parking that would be required pursuant to
357 Table 6.1.7.B contained in § 6.1.7.A. less a parking credit calculated pursuant to §
358 6.1.8.J.1.b The site would need to meet the aforesaid parking requirement prior to
359 receiving a certificate of occupancy (for residential uses) or a certificate of use (for
360 non-residential uses). If the land area of the parking area site increases prior to the
361 initial development of the site, then the requirements of this subsection shall apply
362 to the expanded portion of the site (and any structures thereon) as applicable based
363 on factors such as whether it was previously developed or had previously paid PILOP
364 fees.
365
- 366 (2) After such a parking area site has been initially developed pursuant to this
367 subsection, any further alteration of the site that would result in an increase to the
368 minimum parking requirement for the site, area of the site, shall require that the
369 site provide the minimum parking that would be required pursuant to Table 6.1.7.B
370 contained in § 6.1.7.A. less the parking credit calculated pursuant to § 6.1.8.J.1.b
371 and any PILOP fee(s) previously paid to offset the parking requirement of the site
372 or any part thereof.
373
- 374 (3) After the initial development of such a site, if the area of the site increases, any
375 further alteration of the site that would result in an increase to the minimum
376 parking requirement for the site shall require that the site provide the minimum
377 parking that would be required pursuant to Table 6.1.7.B. contained in § 6.1.7.A.
378 less a parking credit (to which the site would be entitled based on its land area at

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379 the time of such further alteration) and any PILOP fee(s) previously paid to offset
380 the parking requirement of the site, including any PILOP fee(s) paid with respect to
381 the expanded area of the site, in accordance with § 6.1.8.J.1.c.
382

383 (4) Alternatively, if, after the initial development of such a site, the area of the site
384 decreases, any further alteration of the site that would result in an increase to the
385 minimum parking requirement for the site shall require that the site provide the
386 minimum parking that would be required pursuant to Table 6.1.7.B. less a parking
387 credit and any PILOP fee(s) previously paid to offset the parking requirement of any
388 use(s) or structure(s) located on the area of the site remaining after the decrease(s)
389 in area, in accordance with § 6.1.8.J.1.c.
390

391 ii. With respect to parking area sites that are developed and occupied as of December 1,
392 2005, the following shall apply:
393

394 (1) The first time such a site is altered after December 1, 2005, if the alteration would
395 result in an increase in the minimum parking requirement for the site of more than
396 25% over the amount required for the site for the use(s) and structure(s) located on
397 the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for
398 such site as of that date, the site shall be required to provide the minimum parking
399 that would be required pursuant to Table 6.1.7.B. contained in § 6.1.7.A.. less a
400 parking credit calculated as provided in 6.1.8.J.1.b.

401 (2) Alternatively, if such an alteration of the site would result in an increase in the
402 minimum parking requirement for the site of not more than 25% over the amount
403 required for the site for the use(s) and structure(s) on the site as of December 1,
404 2005, as reflected in the certificate(s) of use in effect for such site as of that date,
405 then the alteration of such site shall require the site to provide the minimum
406 parking required for the site (pursuant to Table 6.1.7.B.) less the amount attributed
407 to the site for the use(s) and structure(s) on the site as of December 1, 2005, as
408 reflected in the certificate(s) of use in effect for the site as of that date. Further
409 alterations to the site that do not, either singularly or cumulatively, increase the
410 minimum parking requirement for the site by more than 25% over the amount
411 required for the site for the use(s) and structure(s) on the site as of December 1,
412 2005, as reflected in the certificate(s) of use in effect for such site as of that date,
413 shall require the site to provide the minimum parking required for the site (pursuant
414 to Table 6.1.7.B.) less the amount attributed to the site for the use(s) and
415 structure(s) on the site as of December 1, 2005, as reflected in the certificate(s) of
416 use in effect for the site as of that date and any PILOP fee(s) previously paid to offset
417 the parking requirement of the site or any part thereof including, for sites that have
418 increased or decreased in area any PILOP fee(s) applicable pursuant to § 6.1.8.J.1.c.

419 (3) If further alterations to a site, cumulatively, increase the parking requirement for
420 the site by more than 25% over the amount required for the site for the use(s) and
421 structure(s) on the site as of December 1, 2005, as reflected in the certificate(s) of
422 use as of that date (or, for residential uses, the residential occupancy in effect for
423 such site as of that date), then the alteration of such site that would result in the
424 increase by more than 25% shall require the site to provide the minimum parking
425 required for the site (pursuant to Table SC-5) less a parking credit calculated as

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426 provided in § 6.1.8.J.1.b, based on the area of the site at the time of the alteration
427 that would result in the more than 25% increase, and any PILOP fee(s) previously
428 paid to offset the parking requirement of the site or any part thereof including, for
429 sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant
430 to § 6.1.8.J.1.c.
431

432 iii. With respect to parking area sites that are developed and unoccupied as of December
433 1, 2005, the following shall apply: The first time such a site is occupied following
434 December 1, 2005, the site shall be required to provide the minimum parking that
435 would be required pursuant to Table 6.1.7.B. contained in § 6.1.7.A. less a parking credit
436 calculated by multiplying the area of the site (in square feet) by the parking allocation
437 factor related to the dedicated city parking area upon which the site is located. The site
438 would need to meet the aforesaid parking requirement prior to receiving, for non-
439 residential uses, a certificate of use and, for residential uses, prior to any residential
440 occupation of the structure. If the land area of the parking area site increases following
441 December 1, 2005, but prior to the occupancy of the site, then the requirements of this
442 subsection shall apply to the expanded portion of the site (and any structures thereon)
443 as applicable based on factors such as whether it was previously developed or had
444 previously paid PILOP fees.
445

446 iv. If the structure(s) on any parking area site are demolished, razed, or relocated to a site
447 other than a parking area site, then any subsequent redevelopment of such parking area
448 site shall require the site to provide the minimum parking required for the site (pursuant
449 to Table 6.1.7.B.) less a parking credit calculated as provided in § 6.1.8.J.1.b, based on
450 the area of the site at the time of the redevelopment, and any PILOP fee(s) previously
451 paid to offset the parking requirement of the site or any part thereof including, for sites
452 that have increased or decreased in area, any PILOP fee(s) applicable pursuant to §
453 6.1.8.J.1.c. After such redevelopment is completed, any alteration(s) to the site shall
454 be treated, for purposes of determining the parking requirements of the site, in the
455 same manner as alteration(s) of any other developed parking area site under this
456 subsection.
457

458 e. With respect to each dedicated city parking area located in the Cape Coral CRA. the City
459 Council shall, by resolution, identify all sites that would be parking area sites regulated by
460 this subsection and also, for all such sites that are developed as of December 1, 2005,
461 identify the minimum parking requirement for the use(s) or structure(s) on the site as of
462 December 1, 2005, as though such sites were within the South Cape Downtown District.
463

464 K. Satellite parking within the South Cape District. For purposes of this subsection, a satellite parking
465 arrangement exists when the minimum total parking (excluding on-site parking) required for a site
466 is to be provided on a site at a location different from the site which will be served by the parking
467 as required in § 6.1.7.A. When all or part of the minimum total parking (excluding on-site parking)
468 required for a site is to be satisfied by one or more satellite parking arrangements, such satellite
469 parking arrangements shall comply with the requirements of this subsection as follows:
470

471 1. Except as otherwise provided herein, satellite parking shall be located not more than 1,320 feet
472 from a public entrance to the principal building which contains the use associated with such

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473 satellite parking, except that no satellite off-street parking area shall be located on parkway or
474 primary street designations or across Del Prado Boulevard or Cape Coral Parkway from the use
475 it is serving. When the site that contains the use(s) to be served by the satellite parking offers
476 valet parking at all times that such use(s) are open to the public so that valets will transport the
477 vehicles of patrons of such use(s) to the satellite parking site(s) and such valet service is
478 documented in an agreement entered into by the city and the owners of the property to be
479 served by the satellite parking and the property offering the satellite parking, then the satellite
480 parking site(s) may be more than 1,320 feet from a public entrance to the principal building
481 containing the use served by such valet parking.

482
483 The aforesaid agreement shall be in addition to the agreement required by § 6.1.8.K.1.4. and
484 shall be recorded in the public records of Lee County at the sole expense of the owner(s) of the
485 property to be served by the valet parking. Upon request by the owner of the property to be
486 served by a proposed satellite parking location, the City may allow satellite parking that does
487 not include valet parking to be located more than 1,320 feet from a public entrance to the
488 principal building which contains the use associated with the proposed satellite parking or to
489 be across Del Prado Boulevard or Cape Coral Parkway from the use it is serving, if the City finds
490 that the proposed satellite parking would not be detrimental to the public health, safety, and
491 welfare of the persons utilizing it. Factors which shall be considered by the City in making this
492 determination include, but are not limited to, the following: the proximity of the proposed
493 satellite parking to a signalized intersection, the availability of pedestrian crosswalks or other
494 pedestrian-oriented features at any intersections and any other locations between the
495 proposed satellite parking and the use(s) to be served by it, whether the satellite parking is to
496 be utilized by employees only or by patrons of the use(s) to be served, and the availability of
497 any complementary or supplementary services to such parking, such as trolley or tram systems
498 that would provide transportation for the public to and from the satellite off-street parking area
499 and the use(s) to be served. If the City approves satellite parking at a distance of more than
500 1,320 feet or across Del Prado Boulevard or Cape Coral Parkway, the City may impose conditions
501 on such satellite parking that would be reasonably designed to mitigate any negative effects
502 from such approval. Examples of such conditions include the requirement that a satellite off-
503 street parking area be clearly identified for only employee parking, the requirement that a
504 pedestrian walkway between the off-street parking area and the use(s) it serves be covered so
505 as to protect pedestrians from the elements, and that any supplementary or complementary
506 services be continued so long as the satellite parking is being used.

- 507
508 2. The satellite off-street parking area and the site which contains the use associated with such
509 satellite parking shall be shown on a site plan, development plan, or other equivalent plan. The
510 submitted plan shall show the pedestrian connection(s) between the two sites and shall
511 demonstrate that all pedestrian connections have sidewalks, or other paved walkways,
512 dedicated solely to pedestrians. In addition, the plan shall demonstrate that the distance
513 between the sites is not more than 1,320 feet when measured from a public entrance to the
514 principal building (on the site to be served by the satellite parking) to the closest point on the
515 proposed satellite parking site.
- 516
517 3. Satellite parking spaces on the off-site lot shall only be counted if they are above and beyond
518 the minimum parking requirement for uses on the off-site lot.

519

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- 520 4. The owner of the off-site lot of land (and, the owner of the land intended to be served by such
521 off-site parking, if different than the owner of the lot to be used for parking) shall enter into an
522 agreement with the city, which shall be recorded in the public records of Lee County, Florida,
523 at the expense of the owner of the land intended to be served by the off-site parking.
524
- 525 5. The satellite off-street parking area shall never be sold or transferred except in conjunction with
526 the sale of the lot served by the off-site parking facilities unless:
527
- 528 a. The lot to be sold or transferred will continue to be used as provided in the off-site parking
529 agreement and the new owner or transferee executes a consent to assume and to be bound
530 by the obligations of the owner of the lot used for parking as provided in the agreement;
531
- 532 b. A different lot complying with the all provisions of the City of Cape Coal Code of Ordinances
533 and Land Use and Development Regulations and subject to a recorded off-site parking
534 agreement as specified herein is substituted for the lot of land subject to the off-site parking
535 agreement; or
536
- 537 c. The lot being served by the off-site parking no longer requires the parking as evidenced by
538 a written statement executed by the parties executing the off-site parking agreement and
539 as approved by the City. The aforesaid statement shall be recorded in the public records of
540 Lee County at the expense of the owner of the lot formerly being served by the off-site lot.
541

542 **CHAPTER 2. TRUCK AND VEHICLE PARKING**

543
544 **Section 6.2.1 Parking regulations for residential zoning districts (R-1, RE, A, RML, and RMM).**
545

- 546 A. It shall be unlawful for any owner, agent, operator, or person in charge of a commercial vehicle or
547 trailer to park, store, or keep such vehicle or trailer on the pavement or in the swale of any public
548 street within any single-family residential district in the city. Furthermore, it shall be unlawful for
549 any owner of privately owned real property in any residential district in the city to park on, cause
550 to be parked on, or allow to be parked on such property any commercial vehicle or trailer, except
551 as otherwise provided herein.
552
- 553 B. The prohibitions of § 6.2.1.A shall not apply to the following:
554
- 555 1. Temporary parking of any commercial vehicle or trailer on private property or in the adjoining
556 swale of any public street in a residential district where construction for which a current and
557 valid permit has been issued by the city is underway on the property and the permit is properly
558 displayed on the premises. Provided that such trailer or commercial vehicle is only on the real
559 property at the time the construction is actually physically occurring. Nothing in this subsection
560 is intended to require a permit where none is otherwise required or to allow a trailer or
561 commercial vehicle to be parked on private property or in the adjoining swale of any public
562 street within a residential district when construction is not actually physically occurring on the
563 private property.
564
- 565 2. Deliveries by tradespeople or the use of commercial vehicles or trailers in making service calls.
566

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- 567 3. Temporary parking of a commercial vehicle or recreational vehicle while such vehicle is being
568 used by the operator for travel to and from the residential property for personal reasons of a
569 temporary nature such as for a meal or to visit or serve an ill person. Such temporary parking
570 shall not, however, exceed a total of two hours duration during any 24-hour time period.
571
- 572 4. Emergency parking of a disabled commercial vehicle, recreational vehicle, or trailer. However,
573 any such commercial vehicle, recreational vehicle, boat, or trailer shall be removed from the
574 residential district within 24 hours by wrecker towing or other available means regardless of
575 the nature of the emergency.

576
577 Note: The following requirements will be modified as necessary to conform to Council direction on
578 these parking issues.

579
580 C. Any combination of the following motor vehicles or trailers may be parked in single-family
581 residential districts, on a parcel improved with a single-family residence:

582
583 1. Any light van, sports utility vehicle (SUV), pickup truck, jeep, motorcycle, automobile, or similar
584 type of motor vehicle which is not a commercial vehicle. Furthermore, light vans, sports utility
585 vehicles (SUVs), pickup trucks, jeeps, motorcycles, automobiles, or similar types of motor
586 vehicles which would otherwise be considered to be "commercial vehicles" only because
587 commercial lettering has been affixed to them may be parked outside of a permitted garage or
588 carport provided that all commercial lettering has been concealed by a cover of a type that is
589 applied directly to the surface of the motor vehicle or attached to the vehicle in such a manner
590 that the vehicle can be safely driven on the public streets with the cover in place. If more than
591 one such cover is attached to or is located on a vehicle, then all of such covers on or attached
592 to such vehicle shall be the same color. For purposes of this section, covers located so as to
593 impair the vision of the driver of the vehicle or insecurely mounted so as to present a danger of
594 falling off the vehicle while it is being driven shall be presumed to be insufficient to bring the
595 commercial vehicle within the exemption provided by this subsection. Furthermore, this
596 exemption shall not apply to any motor vehicle that is considered to be a "commercial vehicle"
597 under this section by virtue of the nature of its vehicle type and not solely because commercial
598 lettering has been affixed to it regardless of whether such vehicle or any lettering affixed to it
599 has been covered in part or in full of such vehicle is parked outside of the confines of a permitted
600 garage or carport.

601
602 2. Any trailer or motor vehicle described in § 6.2.1.G which is a commercial vehicle, provided that:

- 603
604 a. The commercial vehicle or trailer is parked in a permitted garage or carport;
605
606 b. When parked in a garage or carport, no part of such commercial vehicle or trailer may
607 project horizontally beyond the roofline of the garage or carport; and
608
609 c. When parked in a carport, such commercial vehicle or trailer is screened on three sides.

610
611 D. No vehicle for human habitation shall be kept or parked on premises zoned for residential purposes
612 or on adjoining public rights-of-way, except when parked entirely within the confines of a garage or
613 carport or in accordance with the following:

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1. Non-resident. Vehicles for human habitation when used for transportation of visitors to this city to visit friends or members of the visitors' family residing in this city may, upon obtaining a permit (for which a charge shall not be made) from the Police Department, be parked upon the premises of the visited family for a period not exceeding ten days. The permit shall be affixed to the vehicle in a conspicuous place on the street side thereof. The City may, for good cause shown, authorize the issuance of a second consecutive free permit not to exceed ten days. An additional permit for the parking of such vehicle will not be issued until after the expiration of 15 days after termination of the last prior permit. For purposes of this section, a person who owns or leases property in the City of Cape Coral shall not be deemed to be a "non-resident" when he or she parks a vehicle for human habitation on property that he or she owns or leases even if such person does not "reside" on the subject property.
 2. Resident. When a vehicle for human habitation is owned or leased by the person who also owns or leases the residential property on which such vehicle is to be parked, such vehicle for human habitation may be parked upon the premises of the resident for a period not exceeding 72 hours for loading and cleaning provided that a permit is first obtained from the City Police Department. A vehicle for human habitation may be parked upon the premises of the resident for unloading after a trip for a period of 72 hours provided that a permit is first obtained from the Police Department. There shall be a minimum of a 48-hour interval between the expiration of one permit and the issuance of another. The permit for each such period shall be affixed to the vehicle in a conspicuous place on the street side thereof. The city shall not charge a fee for the permits to park a vehicle for human habitation upon the premises of the resident as required by this section.
 3. Pop-up campers. A pop-up camper may be parked, only in a closed or folded condition, in the rear yard of a residential lot improved with a principal residential building. For purposes of this paragraph, a "pop-up camper" shall consist of a non-motorized trailer which includes, or on which is mounted, a tent-like enclosure (but such enclosure may be made of canvas or similar material, solid materials, or any combination thereof) to be used for camping purposes, which enclosure opens or expands or unfolds to accommodate temporary occupancy and which closes or folds up into itself in such a way as to be unusable for occupancy and to be no more than 55 inches in height when measured from ground level.
- E. Parking of passenger cars or sports utility vehicles (SUVs) with commercial advertising signs setting forth the name of the business, its address, business telephone number, and type of business (e.g., realtor, painter, etc.) thereon in residential areas outside the confines of a garage or carport is permitted so long as the home (residential) address is not shown thereon.
- F. The following are exempt from the provisions of this section:
1. Commercial vehicles or trailers in actual use or moving directly to or from the location of actual use, which are owned or leased by:
 - a. The city for the accomplishment of a municipal purpose;

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- 660 b. A contractor or subcontractor under agreement with the city to accomplish a municipal
661 purpose; or
662
663 c. A public utility operating within the city, or a contractor or subcontractor under agreement
664 with such public utility; for the installation, maintenance, adjustment, or repair of or to a
665 public utility facility.
666

667 However, no towing company, or other business entity, or any of its officers, employees, and
668 agents shall be exempt from the provisions of this ordinance solely because the towing
669 company or other business entity has been employed by the city to provide towing or other
670 services.
671

- 672 2. Commercial vehicles owned by or leased by governmental entities, including the city, Lee
673 County, or the State of Florida which are parked in residential districts on a parcel improved
674 with a permitted structure when such vehicles are lawfully in the possession of an authorized
675 agent or employee of the governmental entity. This category shall include police or sheriff's
676 vehicles which are permitted to be driven to residences of authorized employee(s) of such law
677 enforcement entities.
678

679 G. In applying the terms of this section, the following rules of construction shall apply:
680

- 681 1. Any motor vehicle or trailer which is partially built or in the process of conversion shall be
682 included under the most stringent definition that can be applied.
683
684 2. In case of doubt as to the proper classification of a specific vehicle, a determination by the
685 state's Department of Highway Safety and Motor Vehicles shall be controlling. The body
686 description and classification on the motor vehicle certificate of title shall be *prima facie*
687 evidence of such determination.
688

689 Note: The following requirements and section numbering will be modified as necessary to conform
690 to Council direction on these parking issues.
691

692 **Section 6.2.2 Parking regulations for property zoned multi-family residential.**
693

694 The restrictions for multi-family residential shall be the same as for single-family residential except that
695 the prohibitions contained in § 6.2.1.A shall not apply to the following commercial vehicles when parked
696 on properties zoned multi-family residential:
697

- 698 A. Pickup trucks from which the cargo boxes have been removed;
699
700 B. Pickup trucks or light vans containing commercial rack(s) regardless of whether such rack(s) are
701 visible from the street or from abutting residential property; and
702
703 C. Light vans, sports utility vehicles (SUVs), pickup trucks, jeeps, motorcycles, automobiles, or similar
704 types of motor vehicles which would otherwise be considered to be "commercial vehicles" only
705 because commercial lettering has been affixed to them.
706

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707 Section 6.2.2 Parking area design requirements for duplex dwellings:

708

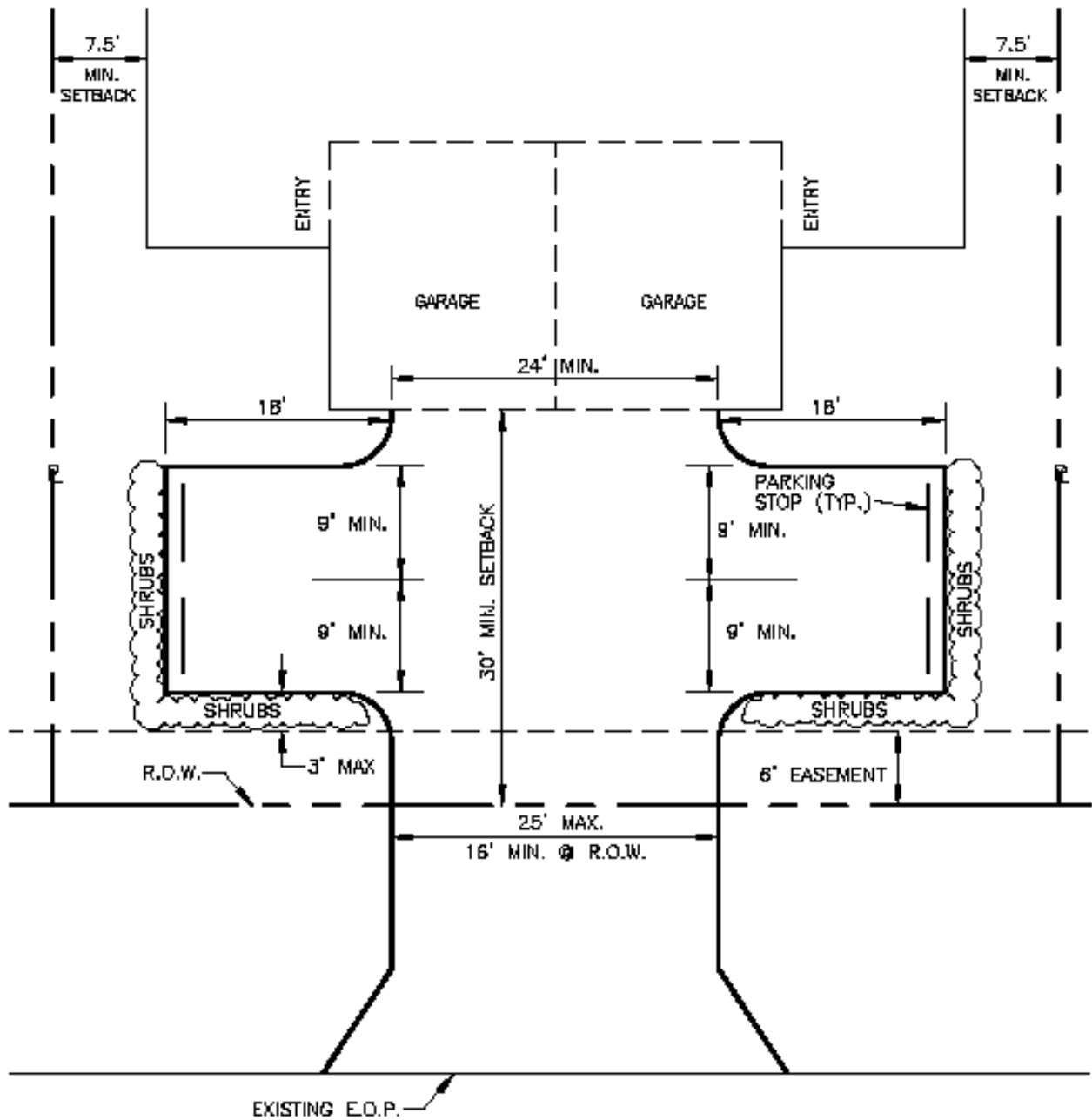
709 Parking areas for duplex dwelling shall conform to one of the following designs:

710

711 Diagram 6.2.2.1. Duplex with garages in the middle.

712

DUPLEX DRIVEWAY & PARKING STANDARD

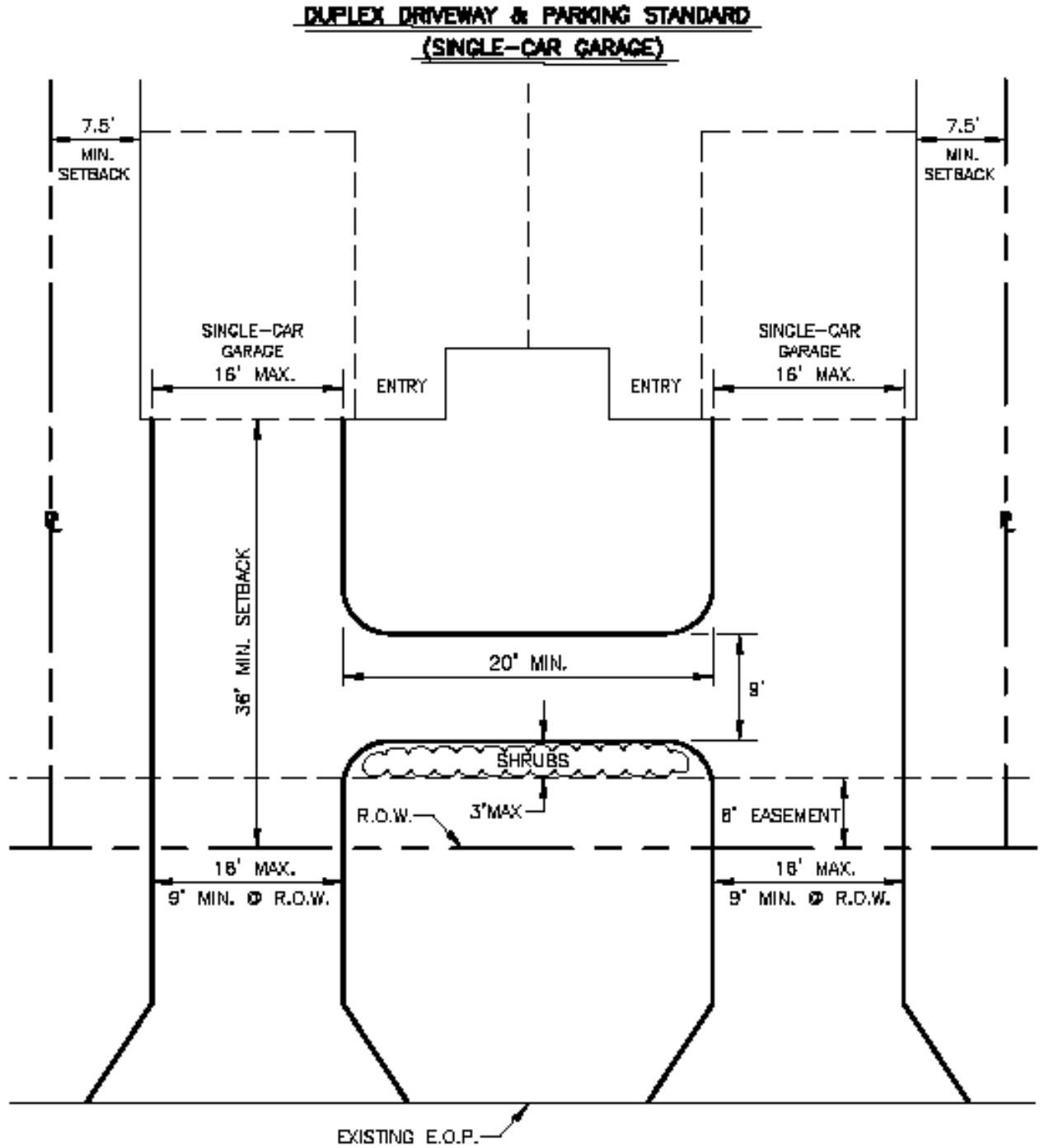


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Diagram 6.2.2.2. Duplex with one-car garages not in the middle

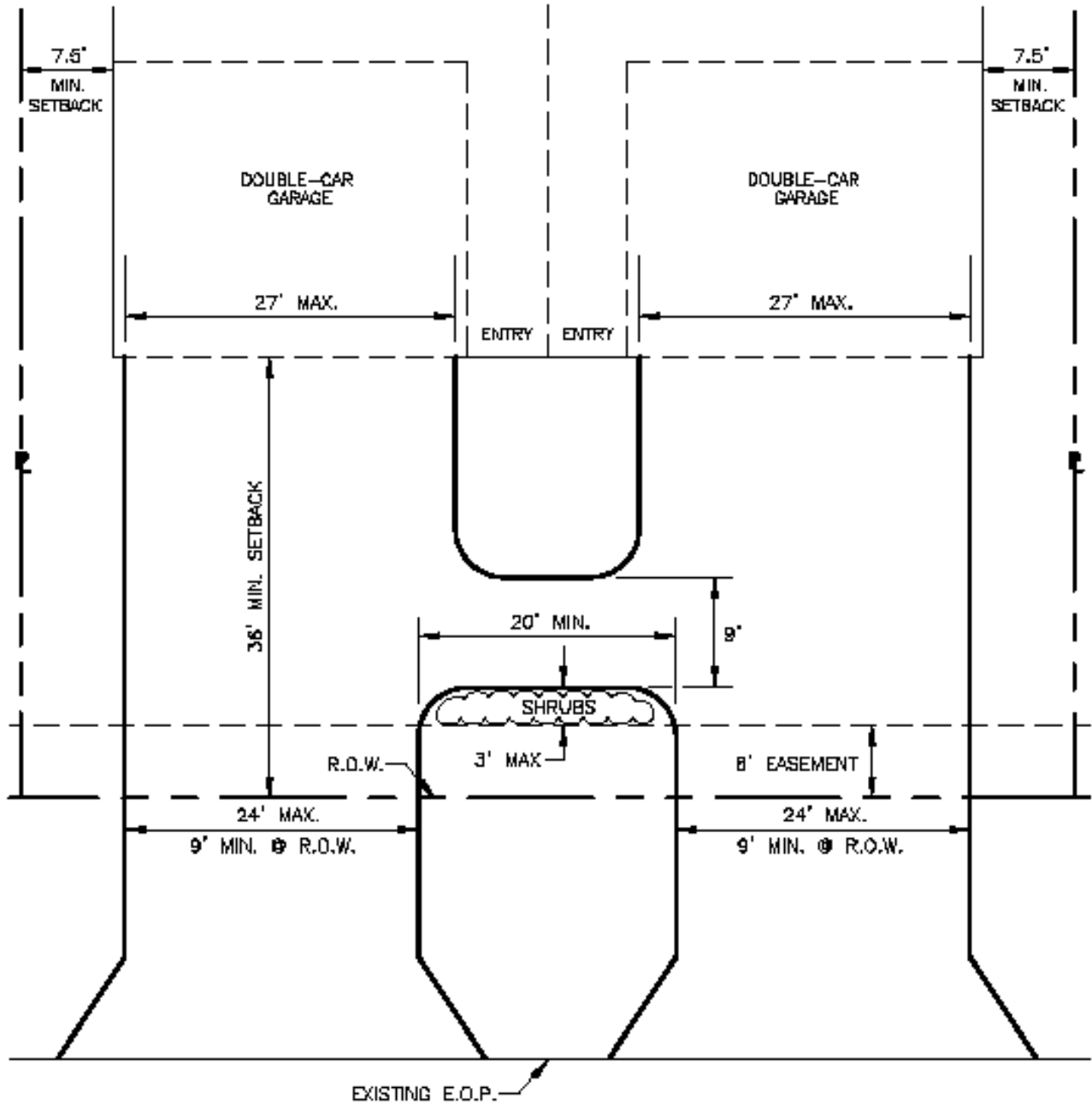


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721 Diagram 6.2.2.3. Duplex dwelling with two-car garages not in the middle.
722

DUPLEX DRIVEWAY & PARKING STANDARD
(DOUBLE-CAR GARAGE)



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Section 6.2.3 Parking regulations for property zoned industrial and agricultural.

Property zoned industrial and agricultural shall have no restrictions placed upon it as to the parking of trucks or unoccupied vehicles for human habitation, except as otherwise regulated within a recreational vehicle park, or as a condition of special exception or a planned unit development.

Section 6.2.4 Hotel and motel parking provisions.

Hotels and motels are considered business enterprises, therefore, trucks, trailers, buses, and other commercial vehicles, as well as vehicles for human habitation may be parked on the premises of such businesses. Such vehicles must not be parked in streets, alleys, or other rights-of-way.

Section 6.2.5 Boats and boat trailers.

The highlighted language below will be modified to conform with Council direction on parking issues.

It shall be unlawful for any person to park, store, keep, maintain, or permit to be parked, stored, kept, or maintained in front or side yard of a single or multi-family residence, or on a vacant lot in a residential area, any boat or empty boat trailer. **A boat, a boat on a trailer, or an empty boat trailer** may be parked on the rear yard provided the same is not allowed to fall into a state of disrepair. If grass or weeds are allowed to grow around or under it to a height exceeding 12 inches, then it may be declared a nuisance and the owner charged accordingly. An empty boat trailer may be parked at a launching site during the period of time that the boat is launched therefrom for a single voyage and while in the process of loading or unloading the boat or trailer. A boat, empty boat trailer, or a boat on a trailer may be parked entirely within the confines of a garage or carport meeting the requirements of this ordinance.

Section 6.2.6 Vacant lots.

It shall be unlawful for any person to park, store, keep, maintain at any time, or permit to be parked, stored, kept, or maintained at any time on any unimproved property in any zoning district any motor vehicle, boat, or trailer of any kind, type, or description, including any boat and trailer in combination, except that this prohibition shall not apply to any unimproved property on which temporary parking of such motor vehicles, boats, or trailers has been authorized by the property owner(s), in writing, and approved by the City in association with a special event that has been approved by the City. Throughout this subsection, the term **TRAILER** shall be deemed to mean and include both a boat mounted on a trailer and the trailer itself.

- A. In the event a motor vehicle, boat, or trailer is parked, stored, kept, or maintained on an unimproved property in any zoning district at any time, a City Code Enforcement Officer shall place a written notice of violation on the vehicle, boat, or trailer indicating that it is in violation of this section and that it must be removed within three calendar days from the date of the notice or it will be subject to removal by the city. The Code Enforcement Officer shall make every reasonable attempt to ascertain the owner of the vehicle, boat, or trailer and the owner of the real property, and shall notify such owner(s) with a written notice delivered by mail or personal service at their current address, last known address, or the address appearing on the certificate of title for the vehicle, boat, or trailer. The notice placed on the vehicle, boat, or trailer and all notices provided to

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776 the owners or apparent owners of the vehicle, boat, trailer, and the land shall advise of the possible
777 appeal provided for in the following subsection B.

778
779 B. Within the three-calendar day period specified in the aforesaid notice, the owner of the vehicle,
780 boat, trailer, or the owner of the real property may appeal to a Special Master utilized by the city
781 to conduct hearings concerning violations involving vehicle(s), boat(s), or trailers) parked, stored,
782 kept, or otherwise maintained on vacant real property. The appeal shall be filed at the office of the
783 City Manager, must attach a copy of the notice of violation appealed, and must include the name
784 of the person filing the appeal and an address at which such person may be served notice of the
785 hearing on the appeal. The hearing on the appeal shall be conducted the same as a code
786 enforcement hearing for a case initiated by a Code Enforcement Officer pursuant to §§ 2-
787 85 through 2-92 of the Code of Ordinances of the City of Cape Coral, Florida. The Special Master
788 shall determine the validity of the violation and may for good cause extend the time for compliance
789 or removal. If such an appeal is instituted, no removal of the vehicle, boat, or trailer shall be
790 required until the appeal has been dismissed or finally determined by the Special Master with a
791 finding of a violation.

792
793 C. If no appeal is made or if an appeal is made but dismissed and the vehicle, boat, or trailer remains
794 in violation after the three calendar day period, or if an appeal is resolved with a finding of a
795 violation and the vehicle, boat, or trailer is not removed within whatever time period is allowed by
796 the Special Master, the City Code Enforcement Manager shall cause such vehicle, boat, or trailer to
797 be towed from the property and thereafter stored and disposed of in accordance with applicable
798 state law or city ordinance. The Special Master may also assess fines and costs; the same as for any
799 code enforcement violation.

800
801 The city shall not be responsible for the towing charges resulting from the removal of the vehicle,
802 boat, or trailer from the property. Instead, the owner(s) of the vehicle, boat or trailer shall be
803 responsible for all such charges.

804
805 D. The authorization in this section for the towing of vehicles, boats, or trailers parked, kept, stored,
806 or otherwise maintained on unimproved property shall be construed as supplementary to any other
807 means of enforcement available to the city and shall not be construed so as to negate the authority
808 of the code enforcement Special Master to hear and adjudicate appropriate cases.

809
810 E. The City Manager shall at least annually recruit qualified persons to serve as Special Masters. The
811 City Council shall, on an annual basis, appoint at least one qualified person to serve as the Special
812 Master and at least one qualified person to serve as an alternate Special Master in the event the
813 Special Master is unable to attend a meeting. Applicants for the Special Master position must be
814 attorneys. The appointment(s) shall be in the sole discretion of the City Council. However, any
815 person appointed to the position of Special Master pursuant to this section must be an attorney
816 duly licensed by the Florida Bar Association to practice law in the State of Florida.

817
818 F. Each Special Master shall serve for a term of one year though Special Masters may be reappointed
819 for consecutive one-year terms. Although appointed for one-year terms, Special Masters shall be
820 subject to removal, with or without cause, from their positions at any time during their term by the
821 City Council in its sole discretion. Special masters shall not be considered to be city employees
822 though, if authorized by the City Council, they may receive compensation for their service and also

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823 may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the
824 City Council.

825
826 G. The Special Master shall convene hearings concerning appeals of alleged violations of this section
827 within a reasonable time from the date the appeal request is made. Minutes shall be kept of all
828 hearings by the Special Master and all hearings and proceedings shall be open to the public. The
829 City Manager shall provide clerical and administrative personnel as may be reasonably required by
830 the Special Master for the proper performance of his or her duties.

831
832 H. The Special Master shall proceed to hear the cases on the agenda for that day. If the alleged violator
833 has been duly notified of the hearing, the hearing may proceed in the absence of the named
834 violator. All testimony shall be under oath or affirmation and shall be recorded.

835
836 The Special Master shall take testimony from the Code Enforcement Officer, the alleged violator,
837 and any other witnesses who have personal knowledge concerning the alleged violation.
838 Documentary evidence may be presented in support, of or in defense of the charge. Irrelevant,
839 immaterial, or unduly repetitious evidence shall be excluded. All other evidence of the type
840 commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be
841 admissible, whether or not such evidence would be admissible in the courts of Florida. Hearsay
842 evidence may be introduced and used for supplementing or explaining other evidence, but it shall
843 not be sufficient in itself to support a finding by the Special Master unless it would be admissible
844 over objections in a civil action. Formal rules of evidence shall not apply, but fundamental due
845 process shall be observed and govern said proceedings.

846
847 I. In order to render an order finding the alleged violator guilty and denying the appeal, the Special
848 Master must find that a preponderance of the evidence indicates that the named violator was
849 responsible for the violation as alleged.

850
851 J. At the conclusion of the hearing, the Special Master shall issue an order containing findings of fact,
852 based on evidence of record, and conclusions of law.

853
854 **Section 6.2.7 Vehicles and trailers for sale.**

855
856 It shall be unlawful for any person to park, store, keep, maintain at any time, or permit to be parked,
857 stored, kept, or maintained on any unimproved property in any zoning district, or outside of a
858 completely enclosed building on any improved property in a W, C, CC, P or I zoning district, any motor
859 vehicle or trailer of any kind, type, or description, including any boat mounted on a trailer, which is
860 being displayed for sale, hire, or rental except as provided in subsections I., J. and K. below. Throughout
861 this subsection, the term "trailer" shall be deemed to mean and include both a boat mounted on a
862 trailer and the trailer itself.

863
864 A. In the event a motor vehicle or trailer is displayed for sale, hire, or rental in violation of this
865 subsection .8, City Code Enforcement Officer(s), law enforcement officer(s), or such other city
866 employee(s) as may be designated by the City, are authorized to cause such vehicle or trailer to be
867 immobilized or towed from the property to a garage or other place of safety, and thereafter
868 disposed of in accordance with applicable state law or city ordinance. The city shall not be
869 responsible for the towing charges resulting from the removal of the vehicle from the property.

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870 Instead, the owner(s) of the vehicle shall be responsible for all such charges. Immobilization and
871 towing shall be accomplished in accordance with the following subsections B. through H.
872

873 B. A motor vehicle or trailer parked in violation of this section may be immobilized with a "wheel lock,"
874 "boot," or other suitable device as long as a notice of violation is placed by the Code Enforcement
875 Officer on the vehicle or trailer indicating all of the following:
876

877 1. That the vehicle or trailer is in violation of this section and that it must be removed from the
878 property within ten calendar days from the date of the notice or it will be subject to removal by
879 the city;
880

881 2. That the notice of violation may be appealed as provided in the following subsection D.;

882
883 3. That the wheel lock, boot, or other immobilization device will be removed from the vehicle or
884 trailer upon the posting with the city of a \$200 bond, in the form of cash, certified check, or
885 surety bond; and
886

887 4. The name of the city official or department with which such bond must be posted and the street
888 address thereof.
889

890 C. The Code Enforcement Officer shall make every reasonable attempt to ascertain the owner of the
891 motor vehicle or trailer and the owner of the real property on which it is unlawfully parked, and to
892 provide such owner(s) with a copy of the written notice of violation placed on the vehicle or trailer,
893 such copy to be delivered by mail or personal service at their current address, last known address,
894 or the address appearing on the certificate of title for the vehicle.
895

896 D. Within the ten-calendar day period specified in the aforesaid notice, the owner of the vehicle or
897 trailer or the owner of the real property may appeal to a Special Master appointed under § 6.2.6.E.
898 of this chapter. The appeal shall be filed at the office of the City Manager, must attach a copy of the
899 notice of violation appealed, and must include the name of the person filing the appeal and an
900 address at which such person may be served notice of the hearing on the appeal. The hearing on
901 the appeal shall be conducted the same as a code enforcement hearing for a case initiated by a
902 Code Enforcement Officer pursuant to §§ 2-85 through 2-92 of the Code of Ordinances of the City
903 of Cape Coral, Florida. The Special Master shall determine the validity of the violation and may for
904 good cause extend the time for compliance or removal. If such an appeal is instituted, no removal
905 of the vehicle or trailer shall be required until after said appeal has been dismissed or finally
906 determined by the Special Master with a finding of a violation of this subsection .8.
907

908 E. If no appeal is made or if an appeal is made but dismissed and the vehicle or trailer remains in
909 violation after the ten calendar day period, or if an appeal is resolved with a finding of a violation
910 of this subsection and the vehicle or trailer is not removed within whatever time period is allowed
911 by the Special Master, the City Code Enforcement Manager shall cause such vehicle to be towed
912 from the property and thereafter stored and disposed of in accordance with applicable state law or
913 city ordinance. The Special Master may also assess fines and costs, the same as for any code
914 enforcement violation.
915

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916 The city shall not be responsible for the towing charges resulting from the removal of the vehicle
917 from the property. Instead, the owner(s) of the vehicle shall be responsible for all such charges.
918

919 F. The authorization in this subsection .8 for the towing of vehicles and trailers unlawfully displayed
920 for sale, hire, or rental shall be construed as supplementary to any other means of enforcement
921 available to the city and shall not be construed so as to negate the authority of the Code
922 Enforcement Special Master to hear and adjudicate appropriate cases.
923

924 G. The provisions of § 6.2.6.E. through J. above, regarding Special Masters and Special Master hearings,
925 shall apply equally with regard to this § 6.2.7.
926

927 H. Code Enforcement Officer shall be notified and the wheel lock, boot, or other immobilization device
928 shall, as soon as practicable, be removed from the vehicle or trailer. If no appeal of the violation is
929 timely filed, or if an appeal is filed and is dismissed, the bond shall be forfeited to the city to cover
930 the cost of inspection, notice of violation, and immobilization of the vehicle or trailer. If an appeal
931 is filed and ultimately results in a finding by the Special Master that no violation of this subsection
932 .8 occurred, the bond shall be returned to the person who posted it. If an appeal is filed and
933 ultimately results in a finding by the Special Master that a violation of this subsection .8 occurred,
934 the bond shall be applied to any fines and costs assessed against the violator by the Special Master.
935

936 I. If a motor vehicle being displayed for sale, hire, or rental is parked by the owner outside of a
937 completely enclosed building in a designated parking space on any improved property in a W, C, CC,
938 P, or I zoning district, while the owner of the vehicle is attending or participating in activities or is
939 being treated or served by or is shopping at a facility located on such property, the motor vehicle
940 and its owner shall not be in violation of this subsection .8. However, the leaving of any such vehicle
941 on the same property for a period of eight consecutive hours shall create a rebuttable presumption
942 that the owner is not attending or participating in activities or is being treated or served by or is
943 shopping at a facility located on such property and that the motor vehicle and its owner are in
944 violation of this subsection .7.
945

946 J. This subsection .7 shall not apply to any motor vehicle or trailer offered for sale on property
947 developed and used for a licensed business which includes the sale of such vehicles or trailers or to
948 any motor vehicle or trailer while it is being repaired on property developed and used for a licensed
949 business which includes the repair of such vehicles or trailers.
950

951 K. This subsection .7 shall not apply to motor vehicles or trailers offered for sale on any property
952 pursuant to a City Council special event approval.
953

954 **Section 6.2.8 Exemptions.**
955

956 A. The provisions of this section shall not apply to vehicles parked on the premises of churches, clinics,
957 schools, child care facilities, assisted living facilities, public libraries, public buildings, public and club
958 swimming pools, private clubs, golf courses, utilities, hotels and motels, and parks and recreational
959 areas, while the persons transported thereby are attending or participating in activities or being
960 treated or served thereat, nor to buses, trucks or trailers parked at any time in a space prepared or
961 designated therefor on said premises, if such vehicles are used or operated by or for the operation

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962 of the places or institutions designated, except that such vehicles cannot be used for residential
963 purposes.

964
965 B. The provisions of this section shall not apply to vehicles parked on unimproved or vacant lots within
966 the boundaries of the South Cape zoning district, provided the following requirements are met:

967
968 1. The unimproved or vacant property must be zoned for commercial use and must be
969 immediately adjacent to the business premises for which parking is being provided. For
970 purposes of this section, the phrase **IMMEDIATELY ADJACENT** shall mean sharing all or part of
971 a property line with the business premises or directly across a street or alley from the business
972 premises, provided that the width of such street or alley is 50 feet or less and provided that all
973 or part of the unimproved or vacant property lies within an extension of the property lines of
974 the business premises across the street or alley.

975
976 2. If the vacant property which will be utilized for parking is not owned by the same person or
977 entity as the developed commercial property it is intended to serve, the owner of the developed
978 commercial property must have a bona fide lease for the adjacent vacant or unimproved
979 property.

980
981 3. Parking on the vacant or unimproved property shall be limited to only patrons of the adjacent
982 business and only during the hours that such business is in operation. The vacant or unimproved
983 property shall be posted with a sign that states the foregoing two restrictions.

984
985 **Section 6.2.9 Authority to signpost designated areas.**

986
987 The City Manager shall have the authority to post signs designating areas of regulated or restricted
988 parking as provided by F.S. §§ 316.006 and 316.008 (1973) or other applicable laws.

989



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CHAPTER 1. PARKING, LOADING, AND DRIVEWAY REQUIREMENTS

- Section 6.1.1.** Purpose and applicability
- Section 6.1.2.** Standards for parking and vehicular use areas
- Section 6.1.3.** Parking, driveway, and vehicular use areas: provision, location, and setbacks
- Section 6.1.4.** Off-street loading facilities
- Section 6.1.5.** Required visibility triangles
- Section 6.1.6.** Common driveways, shared parking, and off-site parking
- Section 6.1.7.** Amount of required parking
- Section 6.1.8.** Miscellaneous parking requirements

CHAPTER 2. TRUCK AND VEHICLE PARKING

- Section 6.2.1.** Parking regulations for Single-family residential zoning districts
- Section 6.2.2.** Parking ~~area design requirements for duplex dwellings~~~~regulations for property zoned multi-family residential~~
- Section 6.2.3.** Parking regulations for property zoned industrial and agricultural
- Section 6.2.4.** Hotel and motel parking provisions
- Section 6.2.5.** Boats and boat trailers
- Section 6.2.6.** Vacant lots
- Section 6.2.7.** Vehicles and trailers for sale
- Section 6.2.8.** Exemptions
- Section 6.2.9.** Authority to signpost designated areas

CHAPTER 1. PARKING, LOADING, AND DRIVEWAY REQUIREMENTS.

Section. 6.1.1. Purpose and applicability.

The purpose of this Chapter is to ensure that required off-street space is provided to allow for loading, unloading, and parking on private property by motor vehicles, bicycles, and other allowed vehicles. It is further intended that the design of off-street parking areas ensure safe and efficient traffic circulation, with consideration given to the surrounding street plan, pedestrian movements, and safety. All development and redevelopment shall provide off-street parking in compliance with the standards set forth in this Chapter and the Engineering Design Standards.

Section. 6.1.2. Standards for parking and vehicular use areas.

Parking spaces and drive aisles shall conform to standard designs found in the City of Cape Coral Engineering and Design Standards.

Section. 6.1.3. Parking, driveway, and vehicular use areas: provision, location, and setbacks.

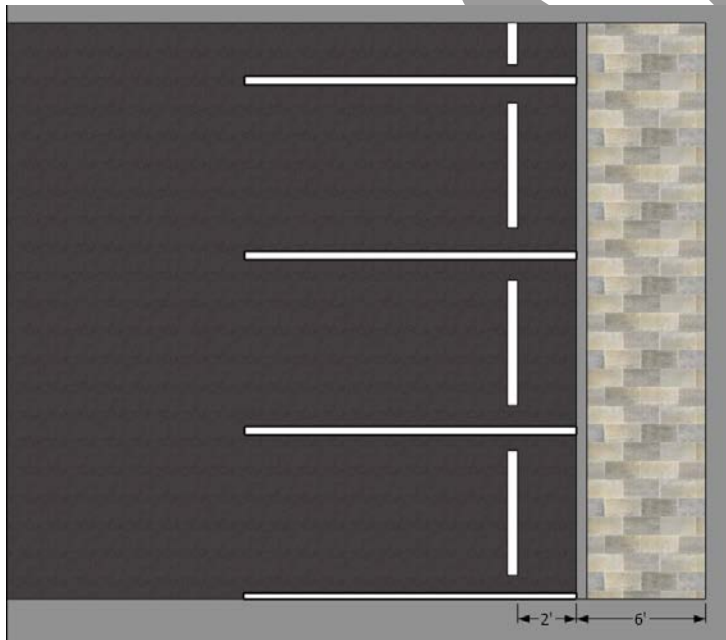
Off-street parking facilities required by this article shall be fully within the property lines of the parcel they are intended to serve unless an alternative location is approved as provided in this Chapter.

- A. Setbacks and buffering from property lines. Landscape buffers required by Article 6 shall be maintained along the perimeter of parking lots.

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- 48
49 B. Driveways. All driveways shall be designed and constructed per the requirements set forth in the
50 Engineering and Design Standards of Cape Coral.
51
52 C. Pedestrian Safety. All off-street parking facilities, including drive aisles, travel lanes, and driveways
53 shall be arranged to minimize hazards to pedestrian movement in the immediate area or encroach
54 upon fire lanes, walkways, and visibility triangles. Pedestrians must be protected from exiting a
55 building into vehicular traffic in an emergency. The applicant shall provide a walkway or a protected
56 area with a minimum width of the doorway plus five feet beyond the swing of the door. All exit
57 discharges from buildings shall be protected by permanent means to ensure pedestrian areas are
58 protected from vehicular encroachment.
59
60 D. Pedestrian Safety Zones. Within parking areas over 100 spaces for commercial uses, paved pedestrian
61 walkways at least six feet in width shall be provided at 200-foot intervals. Such walkways may be
62 interrupted by necessary drive aisles, but shall include adequate wheel chair ramps, if necessary.
63 Curbs or wheel stops shall be so placed to prevent any portion of the vehicle to encroach upon the
64 pedestrian safety zone. Diagram 6.1.3. illustrates a pedestrian safety zone.
65

66 **Diagram 6.1.3. Pedestrian Safety Zone**



71 **Section. 6.1.4. Off-street loading facilities.**

72 Appropriate and adequate loading facilities shall be required for businesses which receive regular
73 deliveries.

- 74
75 A. Design and location.
76
77 1. Loading spaces may not be blocked by parking spaces.
78

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- 79 2. Design of the space shall be such that the delivery vehicles can maneuver without damaging
80 landscaped areas.
81
82 3. Loading spaces may be shared by adjacent properties when delivery schedules do not overlap
83 and an access agreement has been completed.
84
85 4. Loading zones may not be placed where they obstruct required fire lanes and access to
86 hydrants.
87
88 5. Loading zones shall be in a place which ensures convenient and safe entry and exit for the users
89 of the loading zone, and the convenience and safety of pedestrians and motorists using the
90 development.
91

92 **Section. 6.1.5. Required visibility triangles.**
93

94 As an aid to allow for safe operation of vehicles, pedestrians, and cyclists in the proximity of intersecting
95 streets, driveways, alleys, and bicycle paths there shall be limitations on the height of fences, walls,
96 gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures as visually depicted in
97 the Cape Coral Engineering and Design Standards and as follows:
98

99 A. All landscaping and signs within the visibility triangle shall provide unobstructed visibility between
100 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard.
101

102 B. The property owner shall be responsible for maintaining all landscaping within the visibility triangle
103 to provide the unobstructed visibility.
104

105 ~~C. Landscaping, except required turf and ground cover, shall not be closer than five feet from the edge~~
106 ~~of any roadway and three feet from the edge of any alley or pavement.~~
107

108 ~~D. It shall be unlawful for any person to plant or cause to be planted any tree or shrub or to place any~~
109 ~~structure in the public right-of-way without the necessary permit.~~
110

111 ~~E. The elevation grades of the public right-of-way adjacent to private property shall not be altered.~~
112

113 F.C. The Community Development Director or Public Works Director shall make the final determination
114 regarding visibility triangles.
115

116 **Section. 6.1.6. Common driveways, shared parking, and off-site parking.**
117

118 A. Common driveways shall be encouraged and may be required to reduce the number of curb cuts
119 along a right-of-way. Driveways shall be in accordance with the Engineering Design Standards.
120 Driveway access to State and County maintained roadways are regulated by FDOT or Lee County
121 and require separate permits from the respective agency prior to commencement of construction.
122 Approval of a common driveway will require submittal of a notarized shared access agreement and
123 easement, acceptable to the City, which shall be recorded against the title for each property
124 involved.
125

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126 B. Off-site parking and shared parking. In an instance where a business is unable to provide adequate
127 parking on-site, off-site parking may be approved by the Director. Shared parking agreements and
128 off-site parking agreements shall be reviewed as often as is appropriate to ensure compliance and
129 adequacy of all provisions.
130

131 1. Approval of off-site parking shall be dependent upon:
132

133 a. Safe and convenient access to the off-site parking from the business which will be utilizing
134 the off-site parking;
135

136 b. Proof of ownership of the parking lot by the business or a recorded parking agreement
137 recorded against the title of the property to utilize the parking, which may not be eliminated
138 or modified without concurrence by the City;
139

140 c. Evidence that the parking will be available to the business during the times when the
141 parking will be needed; and
142

143 d. Appropriate paving, marking, and lighting of the off-site parking.
144

145 2. In addition to the above requirements, to qualify for shared parking approval one of the
146 following must apply:
147

148 a. It can be proven that the uses in question have peak parking demands during differing times
149 of the day or days of the week; or
150

151 b. A finding is made that there will be a lower demand for parking due to a high proportion of
152 multi-purpose visits. The applicant shall provide documentation to show that the proposed
153 parking for the multiple uses will be adequate. This documentation shall account for all the
154 potential uses allowed in the zoning district on the properties to be served by the shared
155 parking.
156

157 C. Proximity to dedicated city parking areas. Any development within 250 feet, excluding alleys and
158 walkways, of a dedicated city parking area may utilize that area to satisfy off-street parking
159 requirement, provided a sufficient number of improved spaces exist in the city parking area to
160 accommodate the number of spaces otherwise required by this ordinance for such development. If
161 a sufficient number of improved parking spaces do not exist at the time of application, the owner
162 or developer may improve the dedicated city parking area to the extent necessary to provide such
163 sufficient number of improved parking spaces in accordance with the City of Cape Coral Engineering
164 Design Standards. Once the dedicated city parking area has been properly improved and inspected,
165 the city shall be responsible for all maintenance of the public parking area.
166

167 **Section. 6.1.7. Amount of required parking.**
168

169 A. Generally.
170

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- 171 1. The City shall not approve the construction of a parking lot with more than 110 percent of the
172 parking spaces required in Table 6.1.7.A. This shall not apply to development that have a
173 minimum off-street parking requirement of 50 spaces or less.
174
- 175 2. Accessible parking spaces shall meet ADA requirements.
176
- 177 3. Bicycle parking. Permanently placed bicycle parking shall be provide in accordance with
178 Subsection 6.1.7.B and Table 6.1.7.C.
179
- 180 4. Opportunities for reduction in parking requirements. A developer may request a reduction in
181 parking during the site plan process by using the following methods:
182
- 183 a. If the Institute of Transportation Engineers (ITE) Reference Manual entitled Parking
184 Generation allows a lesser number of parking spaces for the proposed use or a use of similar
185 characteristics, then the number of parking spaces required for a development may be
186 reduced.
187
- 188 b. A reduction in the required number of spaces may be allowed if the developer provides the
189 city with credible evidence that the parking needs are actually less than those reflected in
190 the Table of Parking Standards or that the need for off-street parking spaces would be met
191 through alternative means. Such credible evidence may include parking generation studies
192 conducted within the City of Cape Coral or other similarly sized communities.
193

194 **TABLE 6.1.7.A. Required Number of Parking Spaces for Uses.**
195

Uses	Required Parking Spaces
Residential Uses	
Assisted Living Facility (ALF)	One space per four beds plus one space per employee on the largest shift
Community residential facility or home	A minimum of two spaces for up to six residents with one space for every four additional residents
Daycare Center (adult or child, in home or commercial)	A minimum of two spaces for up to five children with one space for every 10 additional children
Dormitories	One space for the first three residents plus one space per employee based on the largest shift
Model home	Three spaces per model home
Residential—mixed-use residential	Sum of unit type plus uses
Residential—multi-family residential	1.5 spaces for one-bedroom units
	Two spaces for dwelling units with two or more bedrooms
	Developments 10-30 units or greater shall provide one space for every five units for guest parking

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Residential—single-family-detached residential	Two spaces, including space in garage if provided
Residential, Duplex	Two spaces per dwelling unit, including space in garages
Residential—Single-family attached	Two spaces per dwelling
Public and Institutional Uses	
Animal shelter	One space per 400 sq. ft. of gross floor area
Community centers	One space per 250 sq. ft. of gross floor area
Cultural and civic facilities—libraries, museums	One space per 300 sq. ft. of gross floor area
Elementary and middle school educational facility—public or private	One space per classroom plus one space per employee
High school educational facilities—public or private	One space per four students of design capacity plus one space per classroom
Secondary educational facilities—technical, vocational, specialty—non-public	One space per 200 sq. ft. of gross floor area
Government facilities, including administrative, support and service	One space per 300 sq. ft. of gross floor area
Hospital—private, public	One space per 200 sq. ft. of gross floor area
Outdoor Amphitheater	1/4 seats, or 1/80 square feet of seating area ADD
Public parks and recreational facilities	3/acre of land designated for passive recreation + 1/2,000 square feet of playground or picnic area ADD
Sewage lift or pumping station	One space per facility
Solid waste transfer station	One space per employee on largest shift plus one space per facility vehicle
Utilities and related facilities, city or other	One space for unmanned facilities; One space per employee on largest shift at manned facilities
Vehicle Related Commercial Uses	
Car wash	One space per employee on largest shift
Rental—automobile, truck, and other vehicles	One space per 400 sq. ft. of gross floor area
Gas stations	One space per 300 sq. ft. of gross floor area
Vehicle major or minor repair and parts—mechanical, service, or body (new or used)	One space per 400 sq. ft. of gross floor area plus one space per bay

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Vehicle sales—new or used automobiles	One space per 400 sq. ft. of gross floor area
Recreation, Entertainment Uses	
<u>Adult Entertainment Establishment</u> <u>Sexually Oriented Business</u>	One space per 100 sq. ft. of gross floor area
Marinas	One space for every two boat slips
Golf course	36 spaces per 9 holes plus one space per 200 sq. ft. of gross floor area
Driving range	One space for every two tees
Golf, miniature	One space per hole
Gun, pistol range, gun clubs, archery clubs—indoor	One space per 250 sq. ft. of gross floor area
Sports fields, basketball courts, racket ball courts, sporting activities—indoor	One space per four seats
Sports fields, basketball courts, racket ball courts, sporting activities—outdoor	20 spaces per field
Indoor Commercial Entertainment	One space per 250 sq. ft. of gross floor area
Restaurant, Food and Beverage Service Uses*	
Bar/lounge	One space per 100 sq. ft. of gross floor area
Brewpub	One space per 100 sq. ft. of gross floor area
Catering Service, no public interface	One space per 400 sq. ft. of gross floor area
Nightclub, Discotheque, Club, Cabarets.	One space per 100 sq. ft. of gross floor area
Restaurant, sit down	One space per 100 sq. ft. of gross floor area plus one space for every four outdoor seats
Restaurant, fast food	One space per 100 sq. ft. of gross floor area
Micro-Brewery or Distillery	One space per employee on the largest shift plus one space per 100 sq. ft. of tasting room area
Places of Assembly Uses*	
Banquet hall	One space per 100 sq. ft. of gross floor area
Place of religious assembly	One space for every four seats
Private clubs, not public	One space per 100 sq. ft. of gross floor area
Theater (movie, performing arts)	One space for every four seats
Commercial Uses*	
All Retail Stores, other than those listed below	One space per 300 sq. ft. of gross floor area
Wholesale	One space per 400 sq. ft. of gross floor area

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Retail—big box, club membership, department, home improvement	One space per 400 sq. ft. of gross floor area
Short Term Lodging	
Camp grounds, RV parks	One space per site plus one space for every 10 additional sites
Hotels, Motels, Resort, Lodging	One space per room plus one space per 400 sq. ft. of gross floor area for all other uses
Transient Housing—shelters	One space for every five beds plus one space for every employee or volunteer
Vacation Rentals	One space per bedroom with a minimum of two spaces
Office Uses*	
Call center	One space per 300 sq. ft. of gross floor area
Office—business, sales, professional, semi-professional services	One space per 300 sq. ft. of gross floor area
Office—medical office/medical clinic	One space per 300 sq. ft. of gross floor area
Service Uses*	
Animal grooming and pet sitting—indoor	One space per 300 sq. ft. of gross floor area
Animal Hospital/Veterinarian clinic	One space per 300 sq. ft. of gross floor area
Animal kennel, boarding	One space per 300 sq. ft. of gross floor area
Blood banks, diagnostic medical treatment centers	One space per 300 sq. ft. of gross floor area
Check cashing, bill payments	One space per 300 sq. ft. of gross floor area
Copy, printing center	One space per 300 sq. ft. of gross floor area
Cosmetic Surgery, beauty clinics	One space per 300 sq. ft. of gross floor area
Customer service center	One space per 300 sq. ft. of gross floor area
Dry cleaning	One space per 300 sq. ft. of gross floor area
Financial institution - banks, credit unions, investment brokerage establishments	One space per 300 sq. ft. of gross floor area
Health club, fitness club	One space per 300 sq. ft. of gross floor area
Laundromat, self-service	1 per 3 machines and One space per 300 sq. ft. of gross floor area
Massage Therapy, body wrapping	One space per 300 sq. ft. of gross floor area
Package shipping, mail service	One space per 300 sq. ft. of gross floor area
Personal care services	One space per 300 sq. ft. of gross floor area
Repair and service shop—general merchandise	One space per 300 sq. ft. of gross floor area

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Self-service storage facility	One space per 10,000 sq. ft. with a minimum of five spaces
Studios—photographic, and instructional	One space per 300 sq. ft. of gross floor area
Tattoo parlor, body piercing	One space per 300 sq. ft. of gross floor area
Other Uses	
Cemetery, mausoleums, crematory	One space for every four seats in an assembly area
Funeral Homes	One space for every four seats in an assembly area
Radio and transmitting station	One space per 400 sq. ft. of gross floor area
Wireless Antennas and support services	One space per facility
Industrial Uses	
Dry cleaning—commercial laundry plant	One space per 1,000 sq. ft. of gross floor area
Equipment and tool rental	One space per 350 sq. ft. of gross floor area plus one space per 1,000 sq. ft. of outdoor rental area
Fireworks, retail	One space per 300 sq. ft. of gross floor area
Flex Space	One space per 300 sq. ft. of gross floor area
Industrial uses—heavy	One space per 350 sq. ft. of gross floor area plus one space for every company vehicle
Industrial uses—light	One space per 350 sq. ft. of gross floor area plus one space for every company vehicle
Laboratory—medical, research, testing	One space per 300 sq. ft. of gross floor area
Mining/extraction, rock quarry	One space per employee
Outdoor Storage, open air storage	One space per employee
Recycling facility, Refuse disposal	1/employee plus 3
Studio for movie, television, music production	One space per 200 sq. ft. of gross floor area
Warehouse	One space per 1,000 sq. ft. of gross floor area
Agricultural Uses	
Community Garden	Three spaces per acre of gardens
Greenhouses—nurseries, retail	One space per employee plus one space per 300 sq. ft. of gross floor area plus one space per 600 sq. ft. of outdoor sales area
Outdoor storage—agriculture	1/employee plus work vehicles?
Farmer's market	One space per vendor plus one space per 350 sq. ft. of vendor area
Animal Boarding Stables	One space for every six animals boarded
* See below	

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*Multiple Occupancy (3 or more units)	One space per 200 sq. ft. of gross floor area
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For facilities having bench or booth seating, one seat shall be considered 24 linear inches of a bench or booth.

Table 6.1.7.B. South Cape Parking Requirements.

TABLE SC-5 MINIMUM PARKING SOUTH CAPE DOWNTOWN DISTRICT				
Applicable Lots	Lot Frontage/Lot Area			Lot Area
	≤75 ft.	>75 ft. but <125 ft.	≥125 ft. but <60,000 sq. ft.	≥60,000 sq. ft.
Minimum Parking (# spaces) (a)				
Residential	1 per unit	1 per unit	1 per unit	1 per unit
Non-residential - restaurant/bar/brewpub(d)	1/500 sq. ft.	1/400 sq. ft.	1/100 sq. ft.	1/100 sq. ft.
Non-residential - hotel	0.75 per room	0.75 per room	0.75 per room	0.75 per room
Non-residential - other	1/500 sq. ft.	1/400 sq. ft.	1/400 sq. ft.	1/400 sq. ft.
Parking required on site - residential and non-residential (b)	50%(c)	50%	75%	75%
(a) For parking area sites, minimum parking shall be as provided, less parking credits in accordance with § 6.1.8.J.1.b				
(b) Satellite parking shall be provided in accordance with § 6.1.8.K.				
(c) Lots with lot frontage less than or equal to 50 feet shall not be required to provide on-site parking. Satellite parking shall be provided in accordance with § 6.1.8.K.				
(d) The minimum parking standard shall not be applied to the area(s) of the building devoted to brewing, bottling, and kegging activities.				

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B. Bicycle parking. Bicycle parking shall be required for all developments of 20,000 square feet or more, in accordance with Table 6.1.7.B. Bicycle parking shall be adjacent to entrances or in a shaded or covered area when one is available. A parking space shall consist of a place for a bike to be secured in a standing position.

Table 6.1.7.C. Bicycle Parking Requirements.

Square Footage of Development	Number of Bicycle Parking Spaces
20,000-50,000	5 spaces
50,001-200,000	10 spaces
200,001 or larger	15 spaces
Multi-family Developments with 16 or more units	1 space/10 units

210

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211 C. Electric vehicle charging stations. Charging stations for electric vehicles shall be required for all
212 development sites of 200,000 square feet of gross floor area or more. One charging station shall
213 be required for the initial 200,000 square feet of development and an additional charging station
214 shall be provided for each additional 20,000 square feet over that.
215

216 **Section. 6.1.8. Miscellaneous parking requirements.**
217

218 A. Access to buildings. Parking shall not interfere with ingress-egress doors for stairwells, transformer
219 rooms, elevator machine rooms, trash rooms, or any other use requiring clear access aisles for
220 services.
221

222 B. Marking and identification. All parking and loading spaces other than for single-family detached and
223 duplex dwellings, shall be marked in accordance with the Engineering Design Standards. Off-street
224 parking facilities not clearly evident from a street or alley shall be identified as to location and
225 purpose. Marking and curb stops for duplex dwelling parking areas shall be marked in accordance
226 with Diagram 6.1.X.
227

228 C. Use of spaces. All off-street parking facilities shall be used solely for the parking of vehicles in
229 operating condition. No automotive repair work except emergency service, no storage of
230 merchandise, and no motor vehicles which are being offered for sale by a business in the
231 development shall be permitted on or within any required off-street parking area.
232

233 D. Surfacing. All off-street parking (spaces and aisles) and drives connecting such areas with the street,
234 including spaces required for serving single-family detached residences or duplexes, shall be
235 surfaced in accordance with the Engineering Design Standards unless an alternative landscaped
236 area is approved for occasional parking as part of a development approval. All parking surfaces shall
237 be maintained in a condition that is safe and free of potholes.
238

239 E. Unpaved parking. Clearly identified, non-paved parking areas may be permitted, only in accordance
240 with this Subsection. Unpaved parking, which is graded and covered with sod to provide a surface
241 that is durable, stable, and will also assist in managing stormwater, dust, and erosion may be
242 provided for up to 50% of the off-street parking requirements for the following uses:
243

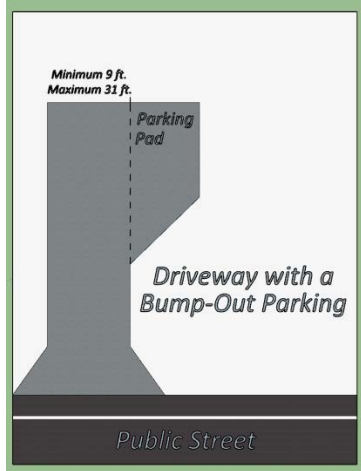
- 244 1. Agriculture or farming uses;
- 245
- 246 2. Cemeteries;
- 247
- 248 3. Funeral homes, mortuaries, and crematoria;
- 249
- 250 4. Places of worship;
- 251
- 252 5. Religious facilities; or
- 253
- 254 6. Parks and recreation facilities owned by a governmental entity.
- 255

256 F. Parking on ~~the~~ unpaved areas shall be prohibited on all parcels other than those specifically allowed
257 by this code to utilize grass parking. Where parking occurs on unpaved areas, a violation may be

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issued. Resolution of the violation may include providing additional parking spaces, not to exceed the allowed pervious surface requirement for that use. ~~Diagram 6.1.8.A. below, illustrates how additional parking may be added through a bump-out at a residential dwelling.~~

Diagram 6.1.8.A Residential drive bump-out.



G. Off-street circulation and maneuvering.

1. Off-street parking facilities for multi-family, industrial, or commercial developments shall provide for on-site vehicle circulation and maneuvering in accordance with the Engineering Design Standards. Backing into the street right-of-way shall not be permitted for any uses other than single-family detached residences on a local street.
2. Single-family detached residences which are on a right-of-way classified as a collector or higher classified roadway, and all duplex residences shall be required to install a circular driveway to eliminate the necessity to back into the roadway. See diagrams 6.1.8.B. and 6.1.8.C. for circular driveway examples.

Diagram 6.1.8.AB. Single-family detached circular drive.

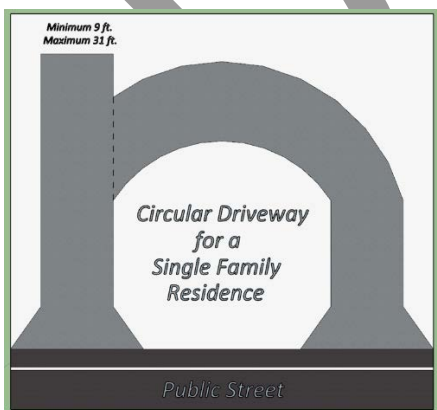
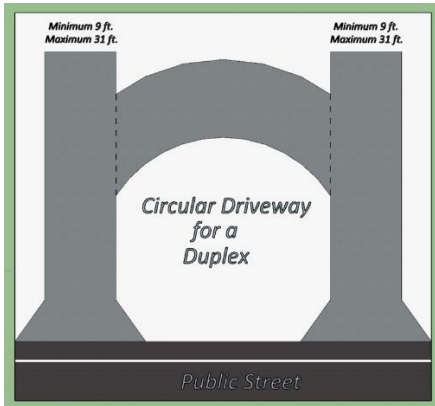


Diagram 6.1.8.C. Duplex circular drive.

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- H. Drainage. Design and construction of all parking areas shall conform to the requirements of the City of Cape Coral Engineering Design Standards and all applicable South Florida Water Management District requirements for stormwater management. All design and construction shall be such that runoff from the property is intercepted and prevented from entering onto adjoining properties or right-of-way(s) prior to treatment. The developer shall be responsible for obtaining all required permits.
- I. Parking along alleys. Parking on sites abutting alleys is allowed provided the following conditions are met:
 - 1. The area of the site abutting the alley is needed to meet the minimum parking requirement for the site.
 - 2. The alley is improved or will be improved to allow for the movement of vehicles in the alley along the site.
 - 3. No portion of a parking space shall be closer than 3' from the platted alley. Vehicles can be parked in their entirety on the site. No part of any parked vehicle may extend into the alley right-of-way.
 - 4. All parking spaces shall be striped consistent with those standards appearing in the City Engineering and Design Standards.
 - 4.5. The minimum clear aisle width behind parking spaces adjacent to alleys shall be the same as the aisle widths required by the Engineering Design Standards for the specific parking space orientation. An additional setback for the parking space from the alley may be required to provide adequate aisle width.
- J. Supplemental parking requirements within the South Cape District.
 - 1. Development may count on-street parking within 500 feet of the property to meet the minimum required off-street parking spaces.
 - 2. As of December 1, 2005, sites within 25 feet, excluding alleys and walkways, of any of those dedicated city parking areas identified in § 6.1.8.J.1.a, below shall be considered "parking area sites". For parking area sites, the following parking and PILOP regulations shall apply:

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- 319
320 a. Each of the following dedicated city parking areas in the Cape Coral CRA is hereby assigned
321 a parking allocation factor as provided below:
322

323 **Table 6.1.8.A. Dedicated City Parking Area within South Cape.**
324

DEDICATED CITY PARKING AREA			
Dedicated City Parking Area	Surrounding Blocks and Lots		Parking Allocation Factor
	Lots	Block	
Parking Area 1	1 through 24	62	0.000655
Parking Area 2	1 through 17	63A	0.001040
Parking Area 4	1 through 30	63	0.001515
Parking Area 5	1 through 61	64	0.001501
Parking Area 6	1 through 34	356	0.001572
	1 through 30	357	
Parking Area 7	11 through 14	56A	0.001330
	1 through 11	56B	
	1 through 12	56C	
	1 through 10	G	

- 325
326 b. For purposes of this subsection, when a "parking credit" must be calculated for a parking
327 area site, such parking credit shall be calculated by multiplying the area of the site (in square
328 feet) by the parking allocation factor related to the dedicated city parking area upon which
329 the site is located. This credit shall be deducted from the minimum parking requirements.
330
331 c. When the area of a parking area site changes, the following shall apply:
332 i. In the event the area of a parking area site is increased as the result of the acquisition
333 of property that was not a part of a parking area site as of December 1, 2005, the
334 increase in area that results from such acquisition shall, for purposes of this subsection,
335 be treated in the same manner as property, no part of which comprised a parking area
336 site.
337 ii. In the event the area of a parking area site is increased as the result of the acquisition
338 of property that was a part of a parking area site as of December 1, 2005, any PILOP
339 fees previously paid as the result of the use(s) or structure(s) on the conveyed property
340 shall be treated in the same manner as any PILOP fees, if any, previously paid by the
341 receiving site provided that the minimum total parking requirements for the conveying
342 site decrease as the result of the conveyance of property. If the minimum total parking
343 requirements for the conveying site do not decrease as the result of the transfer, then
344 any PILOP fees previously paid in regard to the conveying property shall continue to be
345 applied solely to the conveying property and shall not apply toward the parking
346 requirements of the enlarged (receiving) site.
347 iii. In the event the area of a parking area site is decreased as the result of the conveyance
348 of property that was a part of a parking area site as of December 1, 2005, regardless of
349 whether such conveyance is to another parking area site or to a property that is not a
350 parking area site, then any PILOP fees previously paid in regard to the conveying

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property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the receiving site unless the minimum total parking requirements for the conveying site decrease as the result of the transfer. If the minimum total parking requirements for the conveying site decrease as the result of the transfer, and the conveying site had previously paid PILOP fees pursuant to this subsection, then any such PILOP fees that are unnecessary to defray the decreased total parking requirements of the conveying site shall be applied toward the parking requirements of the receiving site.

d. A parking area site is altered, for purposes of this subsection, when any use located on the site is changed, any structure located on the site is modified, or the land area of the site is changed. Although a parking area site shall not be required to provide on-site parking, when such site is altered so that the minimum total parking requirement for the site, pursuant to Table 6.1.7.B contained in § 6.1.7.A. is increased, the parking requirement for the site shall be determined in accordance with the following:

i. Parking area sites that are undeveloped as of December 1, 2005:

(1) A parking area site that is undeveloped as of December 1, 2005, the area of which has not changed and which is being initially developed after December 1, 2005, shall be required to provide the minimum parking that would be required pursuant to Table 6.1.7.B contained in § 6.1.7.A. less a parking credit calculated pursuant to § 6.1.8.J.1.b. The site would need to meet the aforesaid parking requirement prior to receiving a certificate of occupancy (for residential uses) or a certificate of use (for non-residential uses). If the land area of the parking area site increases prior to the initial development of the site, then the requirements of this subsection shall apply to the expanded portion of the site (and any structures thereon) as applicable based on factors such as whether it was previously developed or had previously paid PILOP fees.

(2) After such a parking area site has been initially developed pursuant to this subsection, any further alteration of the site that would result in an increase to the minimum parking requirement for the site, area of the site, shall require that the site provide the minimum parking that would be required pursuant to Table 6.1.7.B contained in § 6.1.7.A. less the parking credit calculated pursuant to § 6.1.8.J.1.b and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof.

(3) After the initial development of such a site, if the area of the site increases, any further alteration of the site that would result in an increase to the minimum parking requirement for the site shall require that the site provide the minimum parking that would be required pursuant to Table 6.1.7.B. contained in § 6.1.7.A. less a parking credit (to which the site would be entitled based on its land area at the time of such further alteration) and any PILOP fee(s) previously paid to offset the parking requirement of the site, including any PILOP fee(s) paid with respect to the expanded area of the site, in accordance with § 6.1.8.J.1.c.

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398 (4) Alternatively, if, after the initial development of such a site, the area of the site
399 decreases, any further alteration of the site that would result in an increase to the
400 minimum parking requirement for the site shall require that the site provide the
401 minimum parking that would be required pursuant to Table 6.1.7.B. less a parking
402 credit and any PILOP fee(s) previously paid to offset the parking requirement of any
403 use(s) or structure(s) located on the area of the site remaining after the decrease(s)
404 in area, in accordance with § 6.1.8.J.1.c.
405

406 ii. With respect to parking area sites that are developed and occupied as of December 1,
407 2005, the following shall apply:
408

409 (1) The first time such a site is altered after December 1, 2005, if the alteration would
410 result in an increase in the minimum parking requirement for the site of more than
411 25% over the amount required for the site for the use(s) and structure(s) located on
412 the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for
413 such site as of that date, the site shall be required to provide the minimum parking
414 that would be required pursuant to Table 6.1.7.B. contained in § 6.1.7.A.. less a
415 parking credit calculated as provided in 6.1.8.J.1.b.

416 (2) Alternatively, if such an alteration of the site would result in an increase in the
417 minimum parking requirement for the site of not more than 25% over the amount
418 required for the site for the use(s) and structure(s) on the site as of December 1,
419 2005, as reflected in the certificate(s) of use in effect for such site as of that date,
420 then the alteration of such site shall require the site to provide the minimum
421 parking required for the site (pursuant to Table 6.1.7.B.) less the amount attributed
422 to the site for the use(s) and structure(s) on the site as of December 1, 2005, as
423 reflected in the certificate(s) of use in effect for the site as of that date. Further
424 alterations to the site that do not, either singularly or cumulatively, increase the
425 minimum parking requirement for the site by more than 25% over the amount
426 required for the site for the use(s) and structure(s) on the site as of December 1,
427 2005, as reflected in the certificate(s) of use in effect for such site as of that date,
428 shall require the site to provide the minimum parking required for the site (pursuant
429 to Table 6.1.7.B.) less the amount attributed to the site for the use(s) and
430 structure(s) on the site as of December 1, 2005, as reflected in the certificate(s) of
431 use in effect for the site as of that date and any PILOP fee(s) previously paid to offset
432 the parking requirement of the site or any part thereof including, for sites that have
433 increased or decreased in area any PILOP fee(s) applicable pursuant to § 6.1.8.J.1.c.

434 (3) If further alterations to a site, cumulatively, increase the parking requirement for
435 the site by more than 25% over the amount required for the site for the use(s) and
436 structure(s) on the site as of December 1, 2005, as reflected in the certificate(s) of
437 use as of that date (or, for residential uses, the residential occupancy in effect for
438 such site as of that date), then the alteration of such site that would result in the
439 increase by more than 25% shall require the site to provide the minimum parking
440 required for the site (pursuant to Table SC-5) less a parking credit calculated as
441 provided in § 6.1.8.J.1.b, based on the area of the site at the time of the alteration
442 that would result in the more than 25% increase, and any PILOP fee(s) previously
443 paid to offset the parking requirement of the site or any part thereof including, for

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444 sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant
445 to § 6.1.8.J.1.c.
446

447 iii. With respect to parking area sites that are developed and unoccupied as of December
448 1, 2005, the following shall apply: The first time such a site is occupied following
449 December 1, 2005, the site shall be required to provide the minimum parking that
450 would be required pursuant to Table 6.1.7.B. contained in § 6.1.7.A. less a parking credit
451 calculated by multiplying the area of the site (in square feet) by the parking allocation
452 factor related to the dedicated city parking area upon which the site is located. The site
453 would need to meet the aforesaid parking requirement prior to receiving, for non-
454 residential uses, a certificate of use and, for residential uses, prior to any residential
455 occupation of the structure. If the land area of the parking area site increases following
456 December 1, 2005, but prior to the occupancy of the site, then the requirements of this
457 subsection shall apply to the expanded portion of the site (and any structures thereon)
458 as applicable based on factors such as whether it was previously developed or had
459 previously paid PILOP fees.
460

461 iv. If the structure(s) on any parking area site are demolished, razed, or relocated to a site
462 other than a parking area site, then any subsequent redevelopment of such parking area
463 site shall require the site to provide the minimum parking required for the site (pursuant
464 to Table 6.1.7.B.) less a parking credit calculated as provided in § 6.1.8.J.1.b, based on
465 the area of the site at the time of the redevelopment, and any PILOP fee(s) previously
466 paid to offset the parking requirement of the site or any part thereof including, for sites
467 that have increased or decreased in area, any PILOP fee(s) applicable pursuant to §
468 6.1.8.J.1.c. After such redevelopment is completed, any alteration(s) to the site shall
469 be treated, for purposes of determining the parking requirements of the site, in the
470 same manner as alteration(s) of any other developed parking area site under this
471 subsection.
472

473 e. With respect to each dedicated city parking area located in the Cape Coral CRA. the City
474 Council shall, by resolution, identify all sites that would be parking area sites regulated by
475 this subsection and also, for all such sites that are developed as of December 1, 2005,
476 identify the minimum parking requirement for the use(s) or structure(s) on the site as of
477 December 1, 2005, as though such sites were within the South Cape Downtown District.
478

479 K. Satellite parking within the South Cape District. For purposes of this subsection, a satellite parking
480 arrangement exists when the minimum total parking (excluding on-site parking) required for a site
481 is to be provided on a site at a location different from the site which will be served by the parking
482 as required in § 6.1.7.A. When all or part of the minimum total parking (excluding on-site parking)
483 required for a site is to be satisfied by one or more satellite parking arrangements, such satellite
484 parking arrangements shall comply with the requirements of this subsection as follows:
485

486 1. Except as otherwise provided herein, satellite parking shall be located not more than 1,320 feet
487 from a public entrance to the principal building which contains the use associated with such
488 satellite parking, except that no satellite off-street parking area shall be located on parkway or
489 primary street designations or across Del Prado Boulevard or Cape Coral Parkway from the use
490 it is serving. When the site that contains the use(s) to be served by the satellite parking offers

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491 valet parking at all times that such use(s) are open to the public so that valets will transport the
492 vehicles of patrons of such use(s) to the satellite parking site(s) and such valet service is
493 documented in an agreement entered into by the city and the owners of the property to be
494 served by the satellite parking and the property offering the satellite parking, then the satellite
495 parking site(s) may be more than 1,320 feet from a public entrance to the principal building
496 containing the use served by such valet parking.
497

498 The aforesaid agreement shall be in addition to the agreement required by § 6.1.8.K.1.4. and
499 shall be recorded in the public records of Lee County at the sole expense of the owner(s) of the
500 property to be served by the valet parking. Upon request by the owner of the property to be
501 served by a proposed satellite parking location, the City may allow satellite parking that does
502 not include valet parking to be located more than 1,320 feet from a public entrance to the
503 principal building which contains the use associated with the proposed satellite parking or to
504 be across Del Prado Boulevard or Cape Coral Parkway from the use it is serving, if the City finds
505 that the proposed satellite parking would not be detrimental to the public health, safety, and
506 welfare of the persons utilizing it. Factors which shall be considered by the City in making this
507 determination include, but are not limited to, the following: the proximity of the proposed
508 satellite parking to a signalized intersection, the availability of pedestrian crosswalks or other
509 pedestrian-oriented features at any intersections and any other locations between the
510 proposed satellite parking and the use(s) to be served by it, whether the satellite parking is to
511 be utilized by employees only or by patrons of the use(s) to be served, and the availability of
512 any complementary or supplementary services to such parking, such as trolley or tram systems
513 that would provide transportation for the public to and from the satellite off-street parking area
514 and the use(s) to be served. If the City approves satellite parking at a distance of more than
515 1,320 feet or across Del Prado Boulevard or Cape Coral Parkway, the City may impose conditions
516 on such satellite parking that would be reasonably designed to mitigate any negative effects
517 from such approval. Examples of such conditions include the requirement that a satellite off-
518 street parking area be clearly identified for only employee parking, the requirement that a
519 pedestrian walkway between the off-street parking area and the use(s) it serves be covered so
520 as to protect pedestrians from the elements, and that any supplementary or complementary
521 services be continued so long as the satellite parking is being used.
522

523 2. The satellite off-street parking area and the site which contains the use associated with such
524 satellite parking shall be shown on a site plan, development plan, or other equivalent plan. The
525 submitted plan shall show the pedestrian connection(s) between the two sites and shall
526 demonstrate that all pedestrian connections have sidewalks, or other paved walkways,
527 dedicated solely to pedestrians. In addition, the plan shall demonstrate that the distance
528 between the sites is not more than 1,320 feet when measured from a public entrance to the
529 principal building (on the site to be served by the satellite parking) to the closest point on the
530 proposed satellite parking site.
531

532 3. Satellite parking spaces on the off-site lot shall only be counted if they are above and beyond
533 the minimum parking requirement for uses on the off-site lot.
534

535 4. The owner of the off-site lot of land (and, the owner of the land intended to be served by such
536 off-site parking, if different than the owner of the lot to be used for parking) shall enter into an

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537 agreement with the city, which shall be recorded in the public records of Lee County, Florida,
538 at the expense of the owner of the land intended to be served by the off-site parking.
539

540 5. The satellite off-street parking area shall never be sold or transferred except in conjunction with
541 the sale of the lot served by the off-site parking facilities unless:

542
543 a. The lot to be sold or transferred will continue to be used as provided in the off-site parking
544 agreement and the new owner or transferee executes a consent to assume and to be bound
545 by the obligations of the owner of the lot used for parking as provided in the agreement;
546

547 b. A different lot complying with the all provisions of the City of Cape Coal Code of Ordinances
548 and Land Use and Development Regulations and subject to a recorded off-site parking
549 agreement as specified herein is substituted for the lot of land subject to the off-site parking
550 agreement; or
551

552 c. The lot being served by the off-site parking no longer requires the parking as evidenced by
553 a written statement executed by the parties executing the off-site parking agreement and
554 as approved by the City. The aforesaid statement shall be recorded in the public records of
555 Lee County at the expense of the owner of the lot formerly being served by the off-site lot.
556

557 **CHAPTER 2. TRUCK AND VEHICLE PARKING**

558
559 **Section 6.2.1 Parking regulations for ~~single family~~ residential zoning districts (R-1, RE, A, RML, and**
560 **RMM).**

561
562 A. It shall be unlawful for any owner, agent, operator, or person in charge of a commercial vehicle or
563 trailer to park, store, or keep such vehicle or trailer on the pavement or in the swale of any public
564 street within any single-family residential district in the city. Furthermore, it shall be unlawful for
565 any owner of privately owned real property in any residential district in the city to park on, cause
566 to be parked on, or allow to be parked on such property any commercial vehicle or trailer, except
567 as otherwise provided herein.
568

569 B. The prohibitions of § 6.2.1.A shall not apply to the following:

570
571 1. Temporary parking of any commercial vehicle or trailer on private property or in the adjoining
572 swale of any public street in a residential district where construction for which a current and
573 valid permit has been issued by the city is underway on the property and the permit is properly
574 displayed on the premises. Provided that such trailer or commercial vehicle is only on the real
575 property at the time the construction is actually physically occurring. Nothing in this subsection
576 is intended to require a permit where none is otherwise required or to allow a trailer or
577 commercial vehicle to be parked on private property or in the adjoining swale of any public
578 street within a residential district when construction is not actually physically occurring on the
579 private property.
580

581 2. Deliveries by tradespeople or the use of commercial vehicles or trailers in making service calls.
582

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583 3. Temporary parking of a commercial vehicle or recreational vehicle while such vehicle is being
584 used by the operator for travel to and from the residential property for personal reasons of a
585 temporary nature such as for a meal or to visit or serve an ill person. Such temporary parking
586 shall not, however, exceed a total of two hours duration during any 24-hour time period.
587

588 4. Emergency parking of a disabled commercial vehicle, recreational vehicle, or trailer. However,
589 any such commercial vehicle, recreational vehicle, boat, or trailer shall be removed from the
590 residential district within 24 hours by wrecker towing or other available means regardless of
591 the nature of the emergency.
592

593 C. ~~Notwithstanding the prohibitions in § 6.2.1.A, a~~Any combination of the following motor vehicles or
594 trailers may be parked in single-family residential districts, on a parcel improved with a single-family
595 residence:
596

597 1. Any light van, sports utility vehicle (SUV), pickup truck, jeep, motorcycle, automobile, or similar
598 type of motor vehicle which is not a commercial vehicle. ~~No more than one pickup truck or light~~
599 ~~van with graphics, lettering, or a wrap may be parked on a parcel. Furthermore, light vans,~~
600 ~~sports utility vehicles (SUVs), pickup trucks, jeeps, motorcycles, automobiles, or similar types of~~
601 ~~motor vehicles which would otherwise be considered to be "commercial vehicles" only because~~
602 ~~commercial lettering has been affixed to them may be parked outside of a permitted garage or~~
603 ~~carport provided that all commercial lettering has been concealed by a cover of a type that is~~
604 ~~applied directly to the surface of the motor vehicle or attached to the vehicle in such a manner~~
605 ~~that the vehicle can be safely driven on the public streets with the cover in place. If more than~~
606 ~~one such cover is attached to or is located on a vehicle, then all of such covers on or attached~~
607 ~~to such vehicle shall be the same color. For purposes of this section, covers located so as to~~
608 ~~impair the vision of the driver of the vehicle or insecurely mounted so as to present a danger of~~
609 ~~falling off the vehicle while it is being driven shall be presumed to be insufficient to bring the~~
610 ~~commercial vehicle within the exemption provided by this subsection. Furthermore, this~~
611 ~~exemption shall not apply to any motor vehicle that is considered to be a "commercial vehicle"~~
612 ~~under this section by virtue of the nature of its vehicle type and not solely because commercial~~
613 ~~lettering has been affixed to it regardless of whether such vehicle or any lettering affixed to it~~
614 ~~has been covered in part or in full of such vehicle is parked outside of the confines of a permitted~~
615 ~~garage or carport.~~
616

617 2. Any trailer or motor vehicle described in § 6.2.1.G which is a commercial vehicle, provided that:

- 618 a. The commercial vehicle or trailer is parked in a permitted garage or carport;
619
620 b. When parked in a garage or carport, no part of such commercial vehicle or trailer may
621 project horizontally beyond the roofline of the garage or carport; and
622
623 c. When parked in a carport, such commercial vehicle or trailer is screened on three sides.
624
625

626 D. No vehicle for human habitation shall be kept or parked on premises zoned for residential purposes
627 or on adjoining public rights-of-way, except when parked entirely within the confines of a garage or
628 carport or in accordance with the following:
629

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- 630 1. Non-resident. Vehicles for human habitation when used for transportation of visitors to this city
631 to visit friends or members of the visitors' family residing in this city may, upon obtaining a
632 permit (for which a charge shall not be made) from the Police Department, be parked upon the
633 premises of the visited family for a period not exceeding ten days. The permit shall be affixed
634 to the vehicle in a conspicuous place on the street side thereof. The City may, for good cause
635 shown, authorize the issuance of a second consecutive free permit not to exceed ten days. An
636 additional permit for the parking of such vehicle will not be issued until after the expiration of
637 15 days after termination of the last prior permit. For purposes of this section, a person who
638 owns or leases property in the City of Cape Coral shall not be deemed to be a "non-resident"
639 when he or she parks a vehicle for human habitation on property that he or she owns or leases
640 even if such person does not "reside" on the subject property.
641
- 642 2. Resident. When a vehicle for human habitation is owned or leased by the person who also owns
643 or leases the residential property on which such vehicle is to be parked, such vehicle for human
644 habitation may be parked upon the premises of the resident for a period not exceeding 72 hours
645 for loading and cleaning provided that a permit is first obtained from the City Police
646 Department. A vehicle for human habitation may be parked upon the premises of the resident
647 for unloading after a trip for a period of 72 hours provided that a permit is first obtained from
648 the Police Department. There shall be a minimum of a 48-hour interval between the expiration
649 of one permit and the issuance of another. The permit for each such period shall be affixed to
650 the vehicle in a conspicuous place on the street side thereof. The city shall not charge a fee for
651 the permits to park a vehicle for human habitation upon the premises of the resident as
652 required by this section.
653
- 654 3. Pop-up campers. A pop-up camper may be parked, only in a closed or folded condition, in the
655 rear yard of a residential lot improved with a principal residential building. For purposes of this
656 paragraph, a "pop-up camper" shall consist of a non-motorized trailer which includes, or on
657 which is mounted, a tent-like enclosure (but such enclosure may be made of canvas or similar
658 material, solid materials, or any combination thereof) to be used for camping purposes, which
659 enclosure opens or expands or unfolds to accommodate temporary occupancy and which closes
660 or folds up into itself in such a way as to be unusable for occupancy and to be no more than 55
661 inches in height when measured from ground level.
662
- 663 E. Parking of passenger cars or sports utility vehicles (SUVs) with commercial advertising signs setting
664 forth the name of the business, its address, business telephone number, and type of business (e.g.,
665 realtor, painter, etc.) thereon in residential areas outside the confines of a garage or carport is
666 permitted so long as the home (residential) address is not shown thereon.
667
- 668 F. The following are exempt from the provisions of this section:
669
- 670 1. Commercial vehicles or trailers in actual use or moving directly to or from the location of actual
671 use, which are owned or leased by:
672
- 673 a. The city for the accomplishment of a municipal purpose;
674
- 675 b. A contractor or subcontractor under agreement with the city to accomplish a municipal
676 purpose; or

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c. A public utility operating within the city, or a contractor or subcontractor under agreement with such public utility; for the installation, maintenance, adjustment, or repair of or to a public utility facility.

However, no towing company, or other business entity, or any of its officers, employees, and agents shall be exempt from the provisions of this ordinance solely because the towing company or other business entity has been employed by the city to provide towing or other services.

2. Commercial vehicles owned by or leased by governmental entities, including the city, Lee County, or the State of Florida which are parked in residential districts on a parcel improved with a permitted structure when such vehicles are lawfully in the possession of an authorized agent or employee of the governmental entity. This category shall include police or sheriff's vehicles which are permitted to be driven to residences of authorized employee(s) of such law enforcement entities.

G. In applying the terms of this section, the following rules of construction shall apply:

1. Any motor vehicle or trailer which is partially built or in the process of conversion shall be included under the most stringent definition that can be applied.
2. In case of doubt as to the proper classification of a specific vehicle, a determination by the state's Department of Highway Safety and Motor Vehicles shall be controlling. The body description and classification on the motor vehicle certificate of title shall be *prima facie* evidence of such determination.

~~**Section 6.2.2 Parking regulations for property zoned multi-family residential.**~~

~~The restrictions for multi-family residential shall be the same as for single-family residential except that the prohibitions contained in § 6.2.1.A shall not apply to the following commercial vehicles when parked on properties zoned multi-family residential:~~

- ~~A. Pickup trucks from which the cargo boxes have been removed;~~
- ~~B. Pickup trucks or light vans containing commercial rack(s) regardless of whether such rack(s) are visible from the street or from abutting residential property; and~~
- ~~C. Light vans, sports utility vehicles (SUVs), pickup trucks, jeeps, motorcycles, automobiles, or similar types of motor vehicles which would otherwise be considered to be "commercial vehicles" only because commercial lettering has been affixed to them.~~

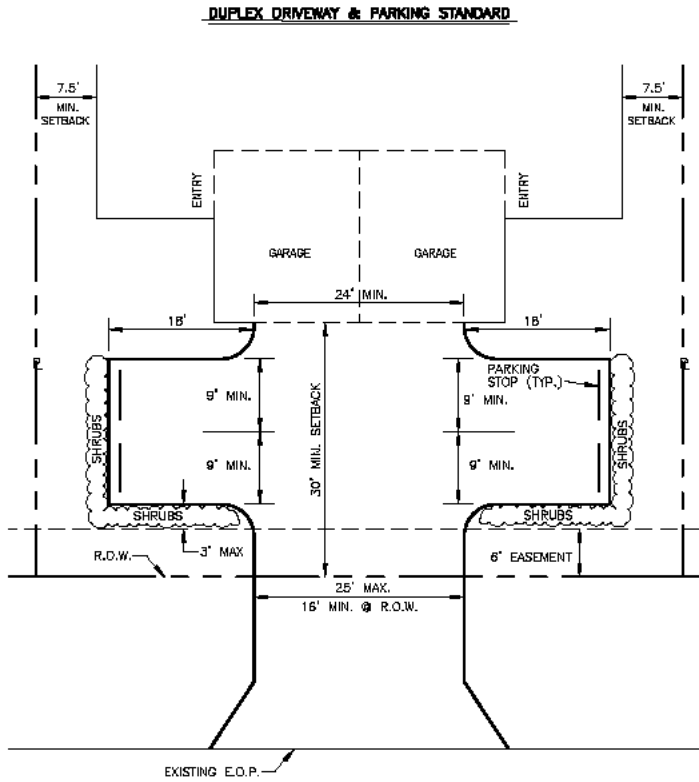
Section 6.2.2 Parking area design requirements for duplex dwellings:

Parking areas for duplex dwelling shall conform to one of the following designs:

Diagram 6.2.2.1. Duplex with garages in the middle.

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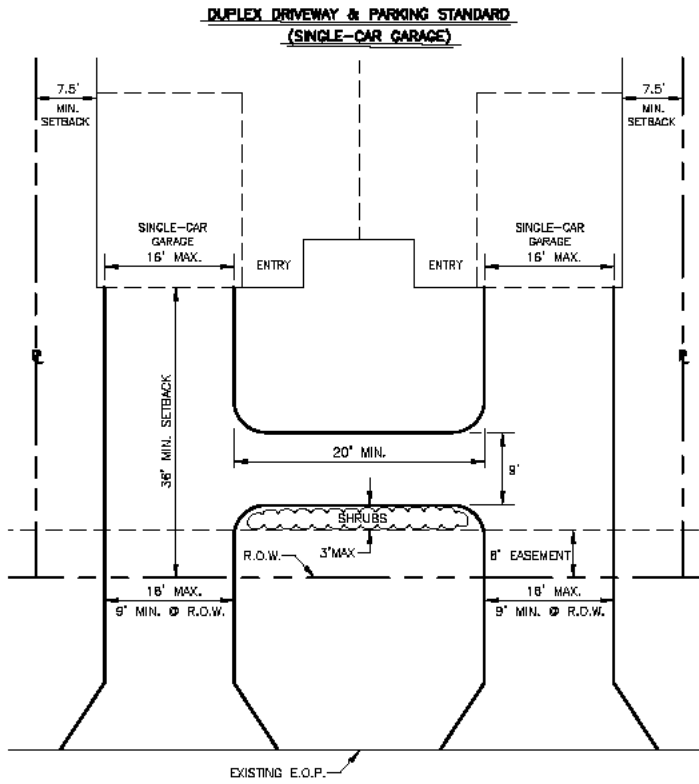
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Diagram 6.2.2.2. Duplex with one-car garages not in the middle

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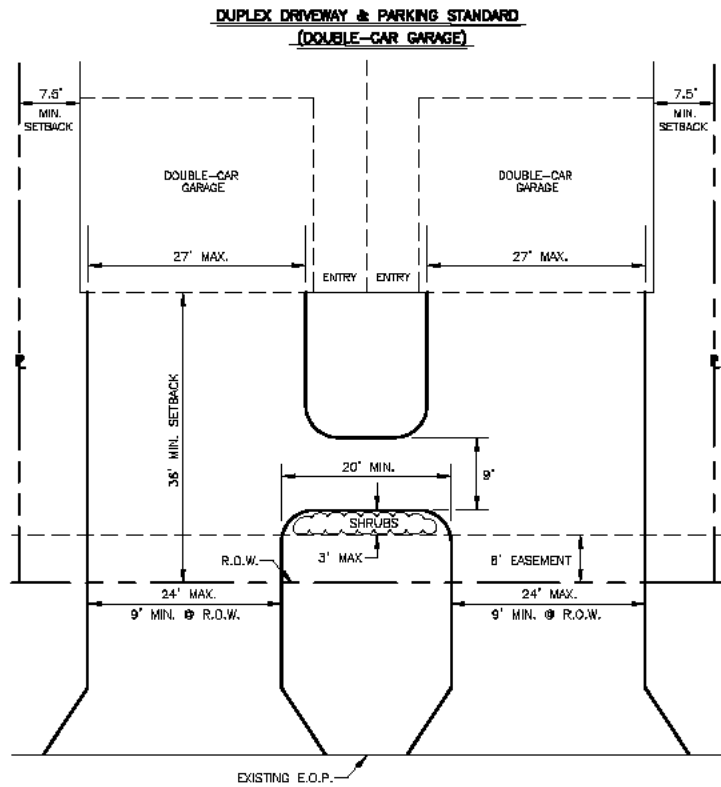


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Diagram 6.2.2.3. Duplex dwelling with two-car garages not in the middle.

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Section 6.2.3 Parking regulations for property zoned industrial and agricultural.

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Property zoned industrial and agricultural shall have no restrictions placed upon it as to the parking of trucks or unoccupied vehicles for human habitation, except as otherwise regulated within a recreational vehicle park, or as a condition of special exception or a planned unit development.

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Section 6.2.4 Hotel and motel parking provisions.

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Hotels and motels are considered business enterprises, therefore, trucks, trailers, buses, and other commercial vehicles, as well as vehicles for human habitation may be parked on the premises of such businesses. Such vehicles must not be parked in streets, alleys, or other rights-of-way.

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Section 6.2.5 Boats and boat trailers.

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It shall be unlawful for any person to park, store, keep, maintain, or permit to be parked, stored, kept, or maintained in front or side yard of a single or multi-family residence, or on a vacant lot in a residential area, any boat or empty boat trailer. A no more than one (1) boat, a boat on a trailer, or an empty boat trailer may be parked on the rear yard provided the same is not allowed to fall into a state of disrepair. If grass or weeds are allowed to grow around or under it to a height exceeding 12 inches, then it may be declared a nuisance and the owner charged accordingly. An empty boat trailer may be parked at a launching site during the period of time that the boat is launched therefrom for a single voyage and while in the process of loading or unloading the boat or trailer. A boat, empty boat trailer, or a boat on

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757 a trailer may be parked entirely within the confines of a garage or carport meeting the requirements of
758 this ordinance.

759

760 **Section 6.2.6 Vacant lots.**

761

762 It shall be unlawful for any person to park, store, keep, maintain at any time, or permit to be parked,
763 stored, kept, or maintained at any time on any unimproved property in any zoning district any motor
764 vehicle, boat, or trailer of any kind, type, or description, including any boat and trailer in combination,
765 except that this prohibition shall not apply to any unimproved property on which temporary parking of
766 such motor vehicles, boats, or trailers has been authorized by the property owner(s), in writing, and
767 approved by the City in association with a special event that has been approved by the City. Throughout
768 this subsection, the term **TRAILER** shall be deemed to mean and include both a boat mounted on a
769 trailer and the trailer itself.

770

771 A. In the event a motor vehicle, boat, or trailer is parked, stored, kept, or maintained on an
772 unimproved property in any zoning district at any time, a City Code Enforcement Officer shall place
773 a written notice of violation on the vehicle, boat, or trailer indicating that it is in violation of this
774 section and that it must be removed within three calendar days from the date of the notice or it
775 will be subject to removal by the city. The Code Enforcement Officer shall make every reasonable
776 attempt to ascertain the owner of the vehicle, boat, or trailer and the owner of the real property,
777 and shall notify such owner(s) with a written notice delivered by mail or personal service at their
778 current address, last known address, or the address appearing on the certificate of title for the
779 vehicle, boat, or trailer. The notice placed on the vehicle, boat, or trailer and all notices provided to
780 the owners or apparent owners of the vehicle, boat, trailer, and the land shall advise of the possible
781 appeal provided for in the following subsection B.

782

783 B. Within the three-calendar day period specified in the aforesaid notice, the owner of the vehicle,
784 boat, trailer, or the owner of the real property may appeal to a Special Master utilized by the city
785 to conduct hearings concerning violations involving vehicle(s), boat(s), or trailers) parked, stored,
786 kept, or otherwise maintained on vacant real property. The appeal shall be filed at the office of the
787 City Manager, must attach a copy of the notice of violation appealed, and must include the name
788 of the person filing the appeal and an address at which such person may be served notice of the
789 hearing on the appeal. The hearing on the appeal shall be conducted the same as a code
790 enforcement hearing for a case initiated by a Code Enforcement Officer pursuant to §§ 2-
791 85 through 2-92 of the Code of Ordinances of the City of Cape Coral, Florida. The Special Master
792 shall determine the validity of the violation and may for good cause extend the time for compliance
793 or removal. If such an appeal is instituted, no removal of the vehicle, boat, or trailer shall be
794 required until the appeal has been dismissed or finally determined by the Special Master with a
795 finding of a violation.

796

797 C. If no appeal is made or if an appeal is made but dismissed and the vehicle, boat, or trailer remains
798 in violation after the three calendar day period, or if an appeal is resolved with a finding of a
799 violation and the vehicle, boat, or trailer is not removed within whatever time period is allowed by
800 the Special Master, the City Code Enforcement Manager shall cause such vehicle, boat, or trailer to
801 be towed from the property and thereafter stored and disposed of in accordance with applicable
802 state law or city ordinance. The Special Master may also assess fines and costs; the same as for any
803 code enforcement violation.

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The city shall not be responsible for the towing charges resulting from the removal of the vehicle, boat, or trailer from the property. Instead, the owner(s) of the vehicle, boat or trailer shall be responsible for all such charges.

- D. The authorization in this section for the towing of vehicles, boats, or trailers parked, kept, stored, or otherwise maintained on unimproved property shall be construed as supplementary to any other means of enforcement available to the city and shall not be construed so as to negate the authority of the code enforcement Special Master to hear and adjudicate appropriate cases.
- E. The City Manager shall at least annually recruit qualified persons to serve as Special Masters. The City Council shall, on an annual basis, appoint at least one qualified person to serve as the Special Master and at least one qualified person to serve as an alternate Special Master in the event the Special Master is unable to attend a meeting. Applicants for the Special Master position must be attorneys. The appointment(s) shall be in the sole discretion of the City Council. However, any person appointed to the position of Special Master pursuant to this section must be an attorney duly licensed by the Florida Bar Association to practice law in the State of Florida.
- F. Each Special Master shall serve for a term of one year though Special Masters may be reappointed for consecutive one-year terms. Although appointed for one-year terms, Special Masters shall be subject to removal, with or without cause, from their positions at any time during their term by the City Council in its sole discretion. Special masters shall not be considered to be city employees though, if authorized by the City Council, they may receive compensation for their service and also may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the City Council.
- G. The Special Master shall convene hearings concerning appeals of alleged violations of this section within a reasonable time from the date the appeal request is made. Minutes shall be kept of all hearings by the Special Master and all hearings and proceedings shall be open to the public. The City Manager shall provide clerical and administrative personnel as may be reasonably required by the Special Master for the proper performance of his or her duties.
- H. The Special Master shall proceed to hear the cases on the agenda for that day. If the alleged violator has been duly notified of the hearing, the hearing may proceed in the absence of the named violator. All testimony shall be under oath or affirmation and shall be recorded.

The Special Master shall take testimony from the Code Enforcement Officer, the alleged violator, and any other witnesses who have personal knowledge concerning the alleged violation. Documentary evidence may be presented in support, of or in defense of the charge. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. All other evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in the courts of Florida. Hearsay evidence may be introduced and used for supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding by the Special Master unless it would be admissible over objections in a civil action. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern said proceedings.

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851 I. In order to render an order finding the alleged violator guilty and denying the appeal, the Special
852 Master must find that a preponderance of the evidence indicates that the named violator was
853 responsible for the violation as alleged.

854
855 J. At the conclusion of the hearing, the Special Master shall issue an order containing findings of fact,
856 based on evidence of record, and conclusions of law.

857
858 **Section 6.2.7 Vehicles and trailers for sale.**

859
860 It shall be unlawful for any person to park, store, keep, maintain at any time, or permit to be parked,
861 stored, kept, or maintained on any unimproved property in any zoning district, or outside of a
862 completely enclosed building on any improved property in a W, C, CC, P or I zoning district, any motor
863 vehicle or trailer of any kind, type, or description, including any boat mounted on a trailer, which is
864 being displayed for sale, hire, or rental except as provided in subsections I., J. and K. below. Throughout
865 this subsection, the term "trailer" shall be deemed to mean and include both a boat mounted on a
866 trailer and the trailer itself.

867
868 A. In the event a motor vehicle or trailer is displayed for sale, hire, or rental in violation of this
869 subsection .8, City Code Enforcement Officer(s), law enforcement officer(s), or such other city
870 employee(s) as may be designated by the City, are authorized to cause such vehicle or trailer to be
871 immobilized or towed from the property to a garage or other place of safety, and thereafter
872 disposed of in accordance with applicable state law or city ordinance. The city shall not be
873 responsible for the towing charges resulting from the removal of the vehicle from the property.
874 Instead, the owner(s) of the vehicle shall be responsible for all such charges. Immobilization and
875 towing shall be accomplished in accordance with the following subsections B. through H.

876
877 B. A motor vehicle or trailer parked in violation of this section may be immobilized with a "wheel lock,"
878 "boot," or other suitable device as long as a notice of violation is placed by the Code Enforcement
879 Officer on the vehicle or trailer indicating all of the following:

880
881 1. That the vehicle or trailer is in violation of this section and that it must be removed from the
882 property within ten calendar days from the date of the notice or it will be subject to removal by
883 the city;

884
885 2. That the notice of violation may be appealed as provided in the following subsection D.;

886
887 3. That the wheel lock, boot, or other immobilization device will be removed from the vehicle or
888 trailer upon the posting with the city of a \$200 bond, in the form of cash, certified check, or
889 surety bond; and

890
891 4. The name of the city official or department with which such bond must be posted and the street
892 address thereof.

893
894 C. The Code Enforcement Officer shall make every reasonable attempt to ascertain the owner of the
895 motor vehicle or trailer and the owner of the real property on which it is unlawfully parked, and to
896 provide such owner(s) with a copy of the written notice of violation placed on the vehicle or trailer,

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897 such copy to be delivered by mail or personal service at their current address, last known address,
898 or the address appearing on the certificate of title for the vehicle.
899

900 D. Within the ten-calendar day period specified in the aforesaid notice, the owner of the vehicle or
901 trailer or the owner of the real property may appeal to a Special Master appointed under § 6.2.6.E.
902 of this chapter. The appeal shall be filed at the office of the City Manager, must attach a copy of the
903 notice of violation appealed, and must include the name of the person filing the appeal and an
904 address at which such person may be served notice of the hearing on the appeal. The hearing on
905 the appeal shall be conducted the same as a code enforcement hearing for a case initiated by a
906 Code Enforcement Officer pursuant to §§ 2-85 through 2-92 of the Code of Ordinances of the City
907 of Cape Coral, Florida. The Special Master shall determine the validity of the violation and may for
908 good cause extend the time for compliance or removal. If such an appeal is instituted, no removal
909 of the vehicle or trailer shall be required until after said appeal has been dismissed or finally
910 determined by the Special Master with a finding of a violation of this subsection .8.
911

912 E. If no appeal is made or if an appeal is made but dismissed and the vehicle or trailer remains in
913 violation after the ten calendar day period, or if an appeal is resolved with a finding of a violation
914 of this subsection and the vehicle or trailer is not removed within whatever time period is allowed
915 by the Special Master, the City Code Enforcement Manager shall cause such vehicle to be towed
916 from the property and thereafter stored and disposed of in accordance with applicable state law or
917 city ordinance. The Special Master may also assess fines and costs, the same as for any code
918 enforcement violation.
919

920 The city shall not be responsible for the towing charges resulting from the removal of the vehicle
921 from the property. Instead, the owner(s) of the vehicle shall be responsible for all such charges.
922

923 F. The authorization in this subsection .8 for the towing of vehicles and trailers unlawfully displayed
924 for sale, hire, or rental shall be construed as supplementary to any other means of enforcement
925 available to the city and shall not be construed so as to negate the authority of the Code
926 Enforcement Special Master to hear and adjudicate appropriate cases.
927

928 G. The provisions of § 6.2.6.E. through J. above, regarding Special Masters and Special Master hearings,
929 shall apply equally with regard to this § 6.2.7.
930

931 H. Code Enforcement Officer shall be notified, and the wheel lock, boot, or other immobilization device
932 shall, as soon as practicable, be removed from the vehicle or trailer. If no appeal of the violation is
933 timely filed, or if an appeal is filed and is dismissed, the bond shall be forfeited to the city to cover
934 the cost of inspection, notice of violation, and immobilization of the vehicle or trailer. If an appeal
935 is filed and ultimately results in a finding by the Special Master that no violation of this subsection
936 .8 occurred, the bond shall be returned to the person who posted it. If an appeal is filed and
937 ultimately results in a finding by the Special Master that a violation of this subsection .8 occurred,
938 the bond shall be applied to any fines and costs assessed against the violator by the Special Master.
939

940 I. If a motor vehicle being displayed for sale, hire, or rental is parked by the owner outside of a
941 completely enclosed building in a designated parking space on any improved property in a W, C, CC,
942 P, or I zoning district, while the owner of the vehicle is attending or participating in activities or is
943 being treated or served by or is shopping at a facility located on such property, the motor vehicle

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944 and its owner shall not be in violation of this subsection .8. However, the leaving of any such vehicle
945 on the same property for a period of eight consecutive hours shall create a rebuttable presumption
946 that the owner is not attending or participating in activities or is being treated or served by or is
947 shopping at a facility located on such property and that the motor vehicle and its owner are in
948 violation of this subsection .7.
949

950 J. This subsection .7 shall not apply to any motor vehicle or trailer offered for sale on property
951 developed and used for a licensed business which includes the sale of such vehicles or trailers or to
952 any motor vehicle or trailer while it is being repaired on property developed and used for a licensed
953 business which includes the repair of such vehicles or trailers.
954

955 K. This subsection .7 shall not apply to motor vehicles or trailers offered for sale on any property
956 pursuant to a City Council special event approval.
957

958 **Section 6.2.8 Exemptions.**
959

960 A. The provisions of this section shall not apply to vehicles parked on the premises of churches, clinics,
961 schools, child care facilities, assisted living facilities, public libraries, public buildings, public and club
962 swimming pools, private clubs, golf courses, utilities, hotels and motels, and parks and recreational
963 areas, while the persons transported thereby are attending or participating in activities or being
964 treated or served thereat, nor to buses, trucks or trailers parked at any time in a space prepared or
965 designated therefor on said premises, if such vehicles are used or operated by or for the operation
966 of the places or institutions designated, except that such vehicles cannot be used for residential
967 purposes.
968

969 B. The provisions of this section shall not apply to vehicles parked on unimproved or vacant lots within
970 the boundaries of the South Cape zoning district, provided the following requirements are met:
971

972 1. The unimproved or vacant property must be zoned for commercial use and must be
973 immediately adjacent to the business premises for which parking is being provided. For
974 purposes of this section, the phrase **IMMEDIATELY ADJACENT** shall mean sharing all or part of
975 a property line with the business premises or directly across a street or alley from the business
976 premises, provided that the width of such street or alley is 50 feet or less and provided that all
977 or part of the unimproved or vacant property lies within an extension of the property lines of
978 the business premises across the street or alley.
979

980 2. If the vacant property which will be utilized for parking is not owned by the same person or
981 entity as the developed commercial property it is intended to serve, the owner of the developed
982 commercial property must have a bona fide lease for the adjacent vacant or unimproved
983 property.
984

985 3. Parking on the vacant or unimproved property shall be limited to only patrons of the adjacent
986 business and only during the hours that such business is in operation. The vacant or unimproved
987 property shall be posted with a sign that states the foregoing two restrictions.
988

989 **Section 6.2.9 Authority to signpost designated areas.**
990

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991 The City Manager shall have the authority to post signs designating areas of regulated or restricted
992 parking as provided by F.S. §§ 316.006 and 316.008 (1973) or other applicable laws.
993

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CHAPTER 1. GENERAL PROVISIONS

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- Section 7.1.2.** Scope
- Section 7.1.3.** Compliance with Codes and Ordinances
- Section 7.1.4.** Substitution
- Section 7.1.5.** Severability
- Section 7.1.6.** Definitions

CHAPTER 2. ADMINISTRATION

- Section 7.2.1.** Prohibited Signs
- Section 7.2.2.** Signs in the Public Right of Way
- Section 7.2.3.** Activities Exempt from Permitting
- Section 7.2.4.** Requirements Applicable to All Signs
- Section 7.2.5.** Maximum Total Sign Area per site
- Section 7.2.6.** Sign Permits
- Section 7.2.7.** Non-conforming Signs
- Section 7.2.8.** Sign Deviations
- Section 7.2.9.** Maintenance of Signs

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CHAPTER 4. PERMANENT SIGNS

- Section 7.4.1.** Permanent signs- Residential
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CHAPTER 1. GENERAL PROVISIONS

Section 7.1.1. Purpose and Intent

It is the purpose of this Article to promote the public health, safety, and general welfare through reasonable, consistent, and non-discriminatory sign standards. The sign regulations in this Article are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs. The sign regulations are especially intended to address the secondary effects that may adversely impact aesthetics and traffic and pedestrian safety. The sign regulations are designed to serve substantial governmental interests and, in some cases, compelling governmental interests, such as traffic safety and warning signs of threats to bodily injury or death. This Article is not intended to extend its regulatory regime to objects that are not traditionally considered signs for purpose of government regulation.

In order to preserve and promote the City as a desirable community in which to live, visit, work, play, and do business, a pleasing, visually attractive, and safe environment is of foremost importance. The regulation of signs within the City is a highly contributive means by which to achieve this desired end.

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47 Further it continues to be the purpose of this Article to promote optimum conditions for serving sign
48 owners' needs and respecting their rights to identification while balancing the aesthetic and safety
49 interests of the community. The regulation of signs within the City is necessary and in the public interest,
50 and these regulations have been prepared with the intent of enhancing the visual environment of the City
51 and promoting its continued well-being, and are intended more specifically to:

- 52
- 53 A. Aesthetics. To maintain and enhance the beauty, unique character, aesthetic environment, and
54 quality of the City, that will attract commerce, businesses, economic development, residents, and
55 visitors; to preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all
56 zoning districts of the City; to regulate the appearance and design of signs in a manner that promotes
57 and enhances the beautification of the City and that complements the natural surroundings in
58 recognition of the City's reliance on its natural surroundings and beautification efforts in retaining
59 economic advantage for its community; and to assure that the benefits derived from the expenditure
60 of public funds for the improvement and beautification of streets, sidewalks, public parks, public
61 rights-of-way, and other public places and spaces, are protected by exercising reasonable controls
62 over the physical characteristics and structural design of signs.
63
 - 64 B. Traffic and Pedestrian Safety. To maintain and improve traffic and pedestrian safety through properly
65 located signs; to regulate signs in a manner so as to not interfere with, obstruct the vision of, or
66 distract motorists, bicyclists, or pedestrians; to allow for traffic control devices consistent with
67 national standards and whose purpose is to promote roadway safety and efficiency by providing for
68 the orderly movement of road users on streets and roadways, and that notify users of regulations and
69 provide warning and guidance necessary for the safe, uniform, and efficient operation of all elements
70 of the traffic stream.
71
 - 72 C. Economic Development. To promote economic development and the value of nonresidential
73 properties, through sensitivity to surrounding land uses and maintaining an attractive community
74 appearance.
75
 - 76 D. Effective Communication. To encourage signs which are clear and legible; and to encourage the
77 effective use of signs as a means of communication.
78
 - 79 E. Identification of Goods and Services. To aid the public and private sectors in identifying the location
80 of goods and services.
81
 - 82 F. Compatibility with Surroundings. To allow signs that are compatible with their surroundings and aid
83 orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or
84 obstruct adjacent land uses or signs; to preclude signs from conflicting with the principal permitted
85 use of the site and adjoining sites; and to minimize the possible adverse effect of signs on nearby
86 public and private property.
87
 - 88 G. Reduction of Visual Clutter. To reduce visual clutter that may otherwise be caused by the proliferation,
89 improper placement, illumination, animation, excessive height, and excessive size (area) of signs
90 which compete for the attention of pedestrian and vehicular traffic.
91

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- 92 H. Zoning District Considerations. To encourage and allow signs that are appropriate to the zoning district
93 in which they are located.
94
- 95 I. Scale, Integration, and Design. To establish sign size in relationship to the scale of the lot and building
96 on which the sign is to be placed or to which it pertains; to foster the integration of signage with
97 architectural and landscape designs; to provide flexibility and encourage variety in signage, and to
98 relate signage to the basic principles of good design; and to promote the use of signs that positively
99 contribute to the aesthetics of the community, are appropriate in scale to the surrounding buildings
100 and landscape, and advance the City’s goals of quality development.
101
- 102 J. Maintenance and Safety. Except to the extent expressly preempted by state or federal law, to ensure
103 that signs are constructed, installed, and maintained in a safe and satisfactory manner, and to protect
104 the public from unsafe signs.
105
- 106 K. Property Values. To protect property values by precluding, to the maximum extent possible, sign types
107 that create a nuisance to the occupancy or use of other properties because of their physical
108 characteristics such as their size (area), height, number, illumination, and movement; and to protect
109 property values by ensuring that the number of signs are in harmony with buildings, neighborhoods,
110 and conforming signs in the area.
111
- 112 L. Enforcement. To enable the fair and consistent enforcement of these sign regulations; and to provide
113 standards regarding the non-communicative aspects of signs, which are consistent with local, county,
114 state, and federal law.
115

116 **Section 7.1.2. Scope**

117
118 This article shall control the regulation of signs and other outdoor displays. If any part of this article
119 conflicts with any other codes adopted by the city, the most restrictive provision shall apply.
120

121 **Section 7.1.3. Compliance with Codes and Ordinances**

122
123 No sign shall be erected or maintained in the city, except in accordance with the provisions of this article.
124 All signs erected, installed, or located in the City of Cape Coral shall conform to all requirements of the
125 National Electrical Code, as revised, the Florida Building Code, this article, and other applicable law.
126

127 **Section 7.1.4. Substitution (SAME)**

128
129 It is not the purpose of this article to regulate or control the copy, content, or viewpoint of signs. Nor is it
130 the intent of this article to afford greater protection to commercial speech than to non-commercial
131 speech. Any sign, display, or device allowed under this article may contain, in lieu of any other copy, any
132 otherwise lawful non-commercial message that complies with all other requirements of this article. The
133 non-commercial message may occupy the entire sign area or any portion thereof, and may substitute for
134 or be combined with the commercial message. The sign message may be changed from commercial to
135 non-commercial or from one non-commercial message to another, as frequently as desired by the sign's
136 owner, if the sign is not prohibited and the sign continues to comply with all requirements of this article.
137

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Section 7.1.5. Severability (SAME)

- A. Generally. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article.
- B. Severability where less speech results. This subsection shall not be interpreted to limit the effect of Section 7.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. The City Council specifically intends that severability shall be applied to these sign regulations even if the result would be to allow less speech in the city, whether by subjecting currently exempt signs to permitting or by some other means.
- C. Severability of provisions pertaining to prohibited signs. This subsection shall not be interpreted to limit the effect of Section 7.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. The City Council specifically intends that severability shall be applied to Section 7.2.1 of this article, "Prohibited signs," so that each of the prohibited sign types listed in that section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.
- D. Severability of prohibition on off-premises signs and commercial signs. This subsection shall not be interpreted to limit the effect of Section 7.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. If any, or all, of this article or any other provision of the code is declared unconstitutional or invalid by the final and valid judgment of any court of competent jurisdiction, the City Council specifically intends that that declaration shall not affect the prohibition of off-site signs in Section 7.2.1 of this article.

Section 7.1.6. Definitions

Article 13 of this code contains definitions as they relate to this article.

Chapter 2. Administration

Section 7.2.1. Prohibited Signs

The following signs are prohibited:

- A. Abandoned signs;
- B. Animated signs, except electronic message centers, electronic laser, video, or digital display signs in which the messages change at intervals of eight seconds or greater in duration, provided such signs comply with the requirements of Section 7.4.3;
- C. Back Lit Awning Signs;

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- 184 D. Unless allowed under Section 7.2.2 of this article, signs on public property, rights-of-way, or attached
185 to trees or utility poles, other than by or with the permission of the owner of the public property or
186 right-of-way;
187
- 188 E. Signs attached to fences on improved, non-residential property; however, this prohibition shall not
189 extend to signs attached to recreational fences around activity fields, playgrounds, or playing fields
190 (such as football fields, baseball diamonds, etc.) in public parks owned and operated by one or more
191 governmental entities and where the signs:
192
 - 193 1. Are only visible from inside the park, or
 - 194 2. If visible from outside the park, face the inside of the park;
- 195
- 196
- 197 F. Figure structured signs;
- 198
- 199 G. Obscene signs;
- 200
- 201 H. Off-site signs;
- 202
- 203 I. Parasite signs;
- 204
- 205 J. Projected image signs;
- 206
- 207 K. Portable signs;
- 208
- 209 L. Roof signs;
- 210
- 211 M. Special event signs, except with special event permit; and
- 212
- 213 N. Vehicle signs.
- 214

Section 7.2.2. Signs in the Public Right of Way (SAME)

- 215
- 216
- 217 A. Signs allowed in the public right-of-way. No signs shall be erected, installed, or located in the public
218 right-of-way or shall project over the public right-of-way, except permanent signs of the following
219 type(s):
220
 - 221 1. Public signs erected by or on behalf of a governmental body to post legal notices, identify public
222 property, convey public information, announce public events, and direct or regulate pedestrian
223 or vehicular traffic.
224
 - 225 2. Signs that are placed within or on structures that are public service related, including bus stop
226 signs, bench/shelter signs, and other informational signs. These structures shall be erected by or
227 on behalf of a public transit or communications company or the city. These structures and the
228 character, size, content, nature, and design of signs on such structures shall be approved by the
229 city through a contract or other agreement approved by the City Council prior to the erection of

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230 such structures or the installation of such signs. If such structures cannot be in the public right-of-
231 way as the result of safety factors, right-of-way constraints, or other factors or if it is more
232 practicable to locate such structures on a site other than public right-of-way, the structure may
233 be placed on private property, provided that prior written consent is obtained from the property
234 owner.

235
236 3. Informational signs of a public utility regarding its poles, lines, pipes, or facilities.

237
238 4. Development identification signs in conformity with 7.4.2

239
240 5. Directional signs in conformity with 7.4.2

241
242 6. Non-commercial signs in conformity with 7.4.2

- 243
244 B. Removal and forfeiture of unauthorized sign in the public right-of-way. The city shall have the right to
245 remove from the public right-of-way any sign which is erected, installed, or located in such public
246 right-of-way and which does not conform to the requirements of this article. Such signs shall be
247 deemed to have been forfeited to the city and the city shall have the right to dispose of such signs as
248 it sees fit. In addition to other remedies, the city shall have the right to recover from the owner of
249 such sign or the person responsible for placing the sign in the public right-of-way all costs associated
250 with the removal or disposal of the sign.

251
252 **Section 7.2.3. Activities Exempt from Permitting (OLD – SEPARATED OUT)**

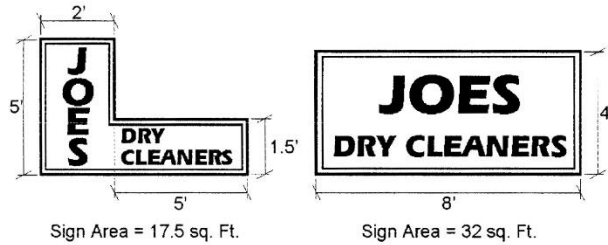
253
254 The following types of activities are exempt from the permitting requirements of this article:

- 255
256 A. Changing the advertising copy, announcement, or message on a marquee or changeable copy sign
257 board so designed to alter such copy; subject to any restrictions in this article, including frequency
258 limitations;
- 259
260 B. Cleaning, painting, or electrical or comparable general maintenance or repair of a sign that does not
261 alter any regulated feature of such sign; and
- 262
263 C. Changing the message or locating official public notices or traffic control signs.

264
265 **Section 7.2.4. Requirements Applicable to All Signs (SAME)**

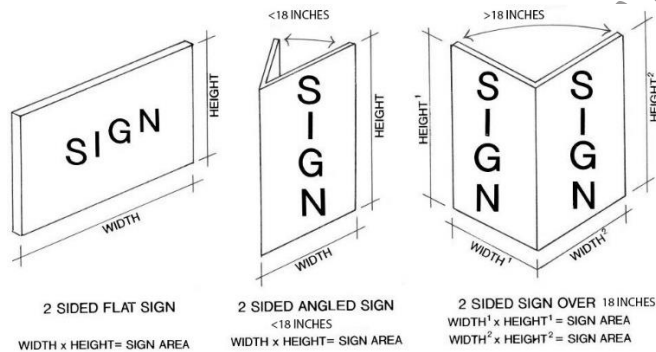
- 266
267 A. Computation of sign area. The area of a sign shall be measured from the outside edges of the sign
268 or the sign frame, whichever is greater, excluding the area of the supporting structures provided that
269 the supporting structures are not used for advertising purposes and are of an area equal to or less
270 than the permitted sign area. Supporting framework and bracing which are incidental to the display
271 itself shall not be included in the computation of the area unless, by the nature of their design, they
272 form a continuation of the sign.

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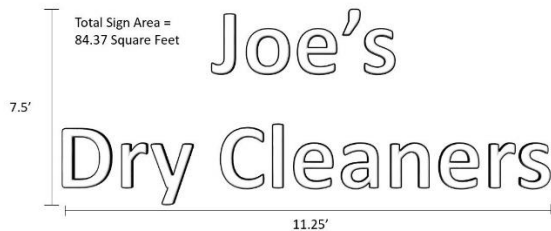
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1. The area of a multi-faced sign shall be computed on one face in the same manner as the sign area of an individual sign, provided that the faces of the sign are not separated at any point by more than 18 inches. If the faces of a multi-faced sign are separated at any point by more than 18 inches, then each face constitutes a separate sign.



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2. Where individual characters are used without a supporting panel (channel letters), the overall dimensions from the beginning of the first character to the end of the last character in the longest line and from the top of the uppermost character to the bottom of the lowermost character shall be regarded as the extreme dimensions in calculating the overall sign area of the sign.



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- B. Computation of height. The vertical height of a freestanding sign shall be computed from the established mean grade of the development site to the highest component of the sign or supporting framework, whichever is higher. The maximum vertical height of a building mounted sign shall not exceed the roof line of the structure.
- C. Location of signs on property.

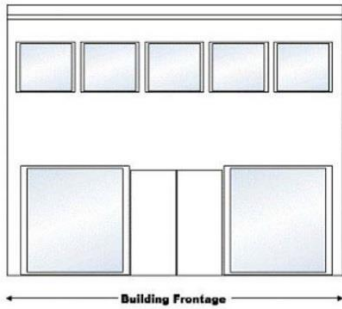
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- 295 1. Setbacks. The distance of a sign from a property line, right-of-way, or other point shall be
296 computed by measuring a perpendicular line from the foremost part of the sign to the ground
297 and then measuring from that point to the nearest point of the property line, right-of-way, etc.
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- 299 2. Distance between freestanding signs. A minimum distance of 25 feet shall be maintained between
300 freestanding signs regardless of whether such signs are on one site or whether they are located
301 on adjacent sites.
302
- 303 3. Location. No sign may project beyond the property line(s) of the property on which the sign is
304 located, except that sign(s) may be flush-mounted to the walls of buildings which are constructed
305 with a zero setback from the property line. Except as otherwise provided herein, signs shall be
306 located on the same site on which the advertised goods or services are available. No part of any
307 banner, sign, flag, or flagpole shall be hung, attached, or erected in any manner as to project into
308 the right-of-way.
309
- 310 4. Freestanding signs are prohibited in the 6' perimeter utility easement.
- 311
- 312 D. Illumination. Signs may be illuminated by any method not prohibited by this article provided that any
313 light source shall be shielded in such a manner as to prevent direct rays of light from being cast into
314 an occupied residence, hotel or motel room, a commercial business, at any pedestrian traveling upon
315 a street or sidewalk, or any vehicle traveling upon a public street.
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Section 7.2.5. Maximum Total Sign Area Per Site

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- 319 A. Residential uses in residential zoning districts. Except for signs identified as permitted, no signs are
320 allowed on sites containing residential uses in residential zoning districts. Any sign on a residential site
321 in a residential zoning district shall comply with the provisions for such sign(s).
322
- 323 B. Non-residential uses in all zoning districts. Except as otherwise provided in this chapter, the number
324 of building signs located on property lawfully used for non-residential purposes shall not be limited
325 so long as the cumulative total sign area (in square feet) of all such signs, except exempt signs, does
326 not exceed the building sign allowance for the property. The allowable building sign area (in square
327 feet) of all signs, except exempt signs, erected, installed, or located on a site lawfully containing a non-
328 residential use in any zoning district shall be computed as follows:
329
- 330 1. Building mounted signs.
331
- 332 a. If a building contains more than one floor or story, the dimension of the primary side of the
333 building shall be determined by measuring (in linear feet) the overall width of the first floor
334 or story of the building on the side that faces the front lot line and the sign allowance for each
335 business establishment or other entity occupying the building shall be shared by such business
336 establishments or other entities as determined by the property owner based on the frontage
337 of the building.
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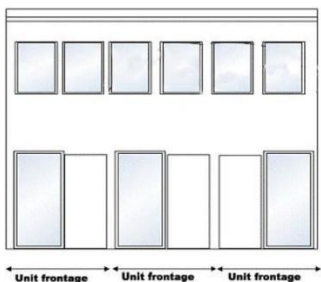
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Structural Building Frontage Single Unit

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- b. If a building contains more than one business establishment or other entity, but the exterior of the building has not been subdivided into units, the sign allowance for each business establishment or other entity occupying the building shall be shared by such business establishments or other entities as determined by the property owner based on the frontage of the building.
- c. If all or part of the exterior of a building has been subdivided into two or more fully enclosed units capable of containing one or more business establishments or other entities (such as a multiple unit shopping center), the front dimension of each such unit shall be considered the building frontage of the unit and the sign allowance for each business establishment or other entity occupying such unit shall be shared among the business establishments or other entities occupying such unit in the manner prescribed by the property owner. Any remaining part of the exterior of the building which has not been subdivided into fully enclosed units shall be treated the same as a building which has not been subdivided into units.



Structural Building Frontage Multiple Unit Building

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- d. If a single business establishment or other entity occupies more than one consecutive fully enclosed unit, the building frontage of such business or other entity shall be the total linear dimension of building frontage of all such units combined.
- e. The allowable signage to be mounted on a building shall be based on the building frontage of a business or other entity as follows:

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Linear Feet of Structural Frontage	Square Feet/Linear Feet of Structural Frontage	Maximum
≤100 Linear Feet	2 Square Feet	100 Square Feet
>100 Linear Feet to ≤300 Linear Feet	1 Square Foot	200 Square Feet
>300 Linear Feet	.75 Square Feet	300 Square Feet
In the event a building is located on a lot that does not abut a public street, the frontage shall be measured along the publicly dedicated parking lot or platted alley that the lot fronts		

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- f. In addition to the sign area otherwise allowed in this section, business establishments or other entities which meet the following criteria shall be allowed additional sign area for building-mounted signs as follows:
 - i. Businesses or other entities fronting on more than one platted street shall be permitted an additional sign area allowance of one-half square foot per linear foot of building frontage on such additional street up to a maximum of 50 square feet per street. Such additional sign area allowance for a second street shall be added to the building-mounted sign area allowance resulting from the building frontage calculation. If a business or other entity fronts on three or four streets, then the additional sign allowance resulting from frontage on the third and/or fourth streets shall be used on the building face actually abutting the third and/or fourth streets. For purposes of this article, when a business or other entity fronts three or four streets, the side(s) of the business establishment or other entity shall be deemed to be fronting on the second and, if applicable, the fourth streets and the rear of the business establishment or other entity shall be deemed to front on the third street.
 - ii. Businesses or other entities whose side or rear building frontages abut a public alley, public parking area, or mall parking area shall be permitted an additional allowance of one-half square foot per linear foot of such side or rear building frontage up to a maximum of 50 square feet. Such additional allowance shall only be used on the side or rear of the building which actually abuts the public alley, public parking area, or mall parking area.

C. Freestanding signs.

- 1. Individual business or entity sites.
 - a. Except as otherwise provided in Section 7.4.3 of this article, "Gasoline pricing signs," no site shall have more than two freestanding signs.
 - b. The allowable freestanding sign area (in square feet), the maximum number of freestanding signs, and the maximum height of freestanding signs erected, located, or placed on lawfully

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398 existing non-residential uses in all zoning districts shall be based on the street frontage of the
399 site.

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401 c. When only one freestanding sign is permitted, the sign shall provide architectural design
402 features, including colors or materials or both consistent with those used in the design of the
403 building to which the sign is accessory. These features shall apply to the sign frame and
404 supporting materials, not to the sign panel or panels that provide the actual advertising area.

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406 d. When two freestanding signs are permitted, signs must be similar in design, color and
407 materials.

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409 e. For all individual non-residential use sites, the following maximum freestanding sign(s)
410 number, maximum freestanding sign area, and height limitations shall apply:
411

Freestanding Signs	Individual businesses or entities	Individual businesses or entities in Preserve Zoning Districts	Individual businesses or entities on Pine Island Road (SR 78), Veterans Parkway, US 41, and Burnt Store Road
Sign are based on street frontage (linear feet)			
100 feet or less	30 square feet	24 square feet	36 square feet
101-200 feet	40 square feet	24 square feet	48 square feet
201-300 feet	52 square feet	24 square feet	60 square feet
301+ feet	65 square feet	24 square feet	75 square feet
Height (feet):	20	20	25
Maximum Number:			
Site with less than 500 linear feet abutting a single street	1	1	1
Site with 500 or more linear feet abutting a single street	2	1	2
1. When more than one freestanding sign is permitted on the same site, signs must be spaced a minimum of 300 feet apart.			

412
413 2. Multiple business or entity sites.
414

415 a. When only one freestanding sign is permitted, the sign shall provide architectural design
416 features, including colors and/or materials consistent with those used in the design of the
417 building the sign is accessory to. These features shall apply to the sign frame and supporting
418 materials, not to the sign panel or panels that provide the actual advertising area.

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- b. On sites that are approved through a Planned Unit Development which contain commercial, professional, industrial, mixed use, or agricultural uses together with residential properties as part of the same Planned Unit Development, and the residential uses front the road on which the development faces with non-residential uses located inside the development not visible from the road, the Director, may allow signs that are used to direct motorists to facilitate finding the non-residential component of the development. The Director, shall take into consideration factors that include:
 - (i) The location of the non-residential uses within the development;
 - (ii) The location of permitted signage for the non-residential uses within the development; and
 - (iii) Roadway conditions.

- c. Although the distribution of freestanding signage among the tenants or occupants of a multiple business or entity site shall be the responsibility of the real property site owner, the following limitations concerning maximum number, sign area, and height of freestanding signs shall apply to all multiple business or entity sites containing non-residential uses:

Freestanding Signs	Multiple business or entity sites	Multiple business or entity sites in Preservation Zoning Districts	Multiple business or entity sites on Pine Island Road (SR 78), Veterans Parkway, US 41, and Burnt Store Road
Sign are based on street frontage (linear feet)			
100 feet or less	50 square feet	24 square feet	60 square feet
101-200 feet	64 square feet	24 square feet	75 square feet
201-300 feet	80 square feet	24 square feet	100 square feet
301+ feet	100 square feet	24 square feet	150 square feet
Height (feet):	20	20	25
Maximum Number:			
Site with less than 500 linear feet abutting a single street	1	1	1
Site with 500 or more linear feet abutting a single street	2	1	2
1. When more than one freestanding sign is permitted on the same site, signs must be spaced a minimum of 300 feet apart. 2. In the event the depth of the property is at least three times the length of the street frontage (linear feet), an additional 25% of sign area is allowed.			

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438 **Section 7.2.6. Sign Permits**

439

440 A. Required. Except as otherwise required, no sign shall be located, placed, erected, constructed,
441 altered, extended, or displayed without first obtaining a sign permit and meeting all requirements of
442 the Florida Building Code. In the event a sign is located, installed, or maintained upon real property
443 without any required permits, after the expiration or lapse of a sign permit, after the closure of a
444 business, or otherwise in violation of the requirements of this article, the owner of the real property
445 shall be deemed to be responsible for the prompt removal of such sign and shall be responsible for
446 and subject to all fines or penalties which shall result from such violation.

447

448 B. Procedure. The procedure for obtaining a sign permit shall in conformance with application
449 requirements in Article 3.1.

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451 1. Upon request by the Department, the applicant shall provide such supplementary information as
452 may be specifically requested by the Department to determine compliance with this article.

453

454 2. The Department shall review the application, plans, and specifications to determine whether the
455 proposed sign conforms to all applicable requirements of this article and, based on such review,
456 shall either approve or deny the application for the sign permit.

457

458 a. Sign permit applications which include a request for a deviation to this article, pursuant to
459 Section 7.2.8 of this article, shall either be approved or denied. However, if the applicant has
460 applied for a building permit or certificate of use for the non-residential use at the subject site
461 or for an electrical permit for the illumination of a sign, no sign permit shall be issued by the
462 city until after the requested building or electrical permit or certificate of use has been issued
463 by the city.

464

465 b. In no event shall the issuance of a sign permit following the issuance of a building permit, but
466 prior to the completion of the construction project, result in an increase in the sign(s) allowed
467 under this article based on the structure as it is eventually completed. In other words, if the
468 city issues sign permit(s) following the issuance of a building permit, but before the
469 construction of the building or structure is completed, and one or more sign(s) are installed
470 or erected pursuant to such sign permit, but then the building plans are modified in such a
471 way as to reduce the number, size, etc. of the sign(s) which would be allowed under this
472 article, then the property owner shall be required to bring such sign(s) into compliance with
473 the provisions of this article and to obtain a valid sign permit for such sign(s).

474

475 C. Submission requirements. No request for a sign permit shall be considered complete until all required
476 documents and fees are received.

477

478 D. Plans and specifications. Plans and specifications for any proposed sign shall be drawn to scale and
479 shall include the following:

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481 1. Dimensions and elevations, including the message of the sign;

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483 2. Parcel frontage on all street rights-of-way for freestanding signs only;

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3. Linear dimension(s) of the subject building or unit located adjacent to all public rights-of-way such as streets, alleys, and public parking lots for freestanding signs only;
 4. Maximum height of the sign, as measured in accordance with this article;
 5. Location of the sign in relation to property lines, public rights-of-way, easements, buildings, and other signs on the property;
 6. Dimensions and anchoring of the sign's supporting members;
 7. For illuminated signs, the type, location, and direction of illumination sources;
 8. Construction and electrical specifications, enabling determination that the sign meets all applicable structural and electrical requirements of the building code; and
 9. Number, type, location, and surface area of all existing signs on the same property and/or building on which the sign is to be located, except that in the event all or part of the exterior of a building has been subdivided into two or more fully enclosed units capable of containing one or more business or entity establishments, such as a multiple unit shopping center, the number, type, location, and surface area of all building mounted signs on the unit for which the proposed sign is sought and all freestanding signs on the property shall be included.
- E. Deviations. If a deviation to any requirements of this article is necessary, a request for a deviation shall be included with the initial application for a sign permit pursuant to Section 7.2.8 of this article.
- F. Lapse. A sign permit shall lapse automatically if the business tax receipt for the premises lapses, is revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of 30 days and is not renewed within 30 days from the date a written notice is sent from the city to the last permittee that the sign permit will lapse if such activity is not resumed. A sign permit shall also lapse if the sign for which it is issued either is not erected and/or placed within 180 days following the issuance of the sign permit or is removed for a period of 60 days. Once a sign permit has lapsed, it shall be considered void and a new application and review process shall be necessary to have such a permit reissued.
- G. Identification. All signs requiring a permit shall have the permit number permanently imprinted or otherwise placed in the lower right-hand corner of the sign.
- H. Removal. The permittee and/or the site owner shall be responsible for the removal of a sign once the sign permit has expired or lapsed, without an application for a new permit, or the purpose in displaying the sign has ended.

Section 7.2.7. Non-Conforming Signs.

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- A. Non-conforming sign compliance. All signs lawfully erected prior to October 1, 2013 that do not comply with the requirements of this article shall be considered non-conforming signs. All non-

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conforming signs shall be removed or brought into conformity with this article no later than January 1, 2024. The owners of the real property on which such non-conforming signs exist shall be responsible for ensuring that such signs are removed or brought into conformity. Non-conforming signs shall not be altered, replaced, or repaired if such alteration, replacement, or repair would constitute more than 50% of the replacement value of the non-conforming sign. All other signs that were not lawfully erected prior to October 1, 2013 that do not comply with the requirements of this article shall be removed no later than December 31, 2013.

- B. Effect of annexation on sign compliance. Any sign that was lawfully erected on property that was located outside of the jurisdiction of the city at the time the sign was erected but which was annexed into the city prior to October 1, 2013 and that does not comply with the requirements of this article shall be considered a non-conforming sign and shall be removed or brought into conformity with this article no later than January 1, 2024. Any sign that was or is lawfully erected on property that was located outside of the jurisdiction of the city at the time the sign is erected but which was annexed into the city on or after October 1, 2013 and that does not comply with the requirements of this article, shall be considered a non-conforming sign and shall be removed or brought into conformity with this article no later than ten years from the effective date of the annexation.
- C. Restrictions on permitting certain non-conforming signs. Sign permits will not be issued for the alteration, replacement, or repair of a non-conforming sign if such alteration, replacement, or repair constitutes more than 50% of the replacement value of the existing non-conforming sign. Changing the information on the face of an existing non-conforming sign shall not be deemed an action increasing the degree or extent of the non-conformity to constitute a violation of this article. Any other alteration to an existing non-conforming sign will be required to conform to this article.
- D. Exceptions. A sign which is erected, located, or installed prior to the adoption of this ordinance and which was approved by a dimensional variance from the Board of Zoning Adjustment and Appeals or the City Council shall retain such variance approval. A sign which is erected, located, or installed prior to the adoption of this ordinance and which was approved by a deviation from the Director shall retain such deviation approval. However, any sign which has been approved by such a dimensional variance or deviation and is then changed to conform to this article shall forfeit the sign variance or deviation.

Section 7.2.8. Sign Deviations.

- A. Deviations. A deviation may be granted from the strict application of the regulations in this chapter which apply to:
 - 1. Allow a 25% increase in allowable sign area;
 - 2. Allow a 25% increase in allowable sign height;
 - 3. Allow for decrease in minimum distance between freestanding signs; or
 - 4. Allow an additional freestanding sign.

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575 B. Requests for deviations shall be initiated by the applicant in the application for sign permit approval
576 and shall be accompanied by documentation including, but not limited to, sample detail drawings,
577 schematic architectural drawings, site plans, elevations, and perspectives which shall graphically
578 demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the
579 benefit, or at least not to the detriment, of the public interest. Deviations from the provisions of this
580 article may be approved by the Director provided that such deviation will not be contrary to the public
581 interest and in harmony with the general intent and purpose of this article and where one or both of
582 the following criteria are satisfied:

- 583
- 584 1. Conditions exist that are not the result of the applicant and which are such that a literal
585 enforcement of the regulations involved would result in unnecessary or undue hardship; or
586
 - 587 2. There is something unique about the building or site configuration that would cause the signage
588 permitted by this article to be ineffective in identifying a use or structure that would otherwise
589 be entitled to a sign.

590

591 C. Subject to the standards and criteria stated above, the Director shall approve only the minimum
592 deviation from the provisions of this article necessary to avoid the undue hardship or to cause the
593 signage for the site to be effective in identifying the use or structure located on the site. However, no
594 deviation shall be approved that would have the effect of allowing a type or category of sign that
595 would otherwise be prohibited by this article.

596

597 D. Any person aggrieved by the decision of the Director concerning a deviation from the provisions of
598 this article may appeal such decision to the Hearing Examiner in accordance with Article 3.1.14.B
599

600 E. The Hearing Examiner may reverse or affirm, wholly or partly, or may modify the decision appealed
601 from and shall make any order, requirement, decision, or determination that in its opinion ought to
602 be made in the case before it within 60 days of the filing of a notice of appeal. To this end, the Hearing
603 Examiner shall have all the powers of the authority from whom the appeal is taken. The Hearing
604 Examiner's powers on appeal also shall be limited to the powers of the authority from whom the
605 appeal is taken so that the Hearing Examiner shall have the power to approve only the minimum
606 deviation from the provisions of this article necessary to avoid the undue hardship or to cause the
607 signage for the site to be effective in identifying the use or structure located on the site. Neither the
608 variance procedures nor variances themselves shall be available for increasing the number of signs or
609 the sign area to be allowed for a site.

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611 F. Appeals from the decision of the Hearing Examiner shall be in accordance with the procedures
612 identified in Article 3.1.14.C

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Section 7.2.9. Maintenance of Signs.

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616 A. Maintenance Required.

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618 It is unlawful for any owner of record, lessor, lessee, manager, or other person having lawful
619 possession or control over a building, structure, or parcel of land to fail to maintain any signs on the
620 building, structure, or parcel in compliance with this chapter. Failure to maintain a sign constitutes a

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621 violation of this chapter and shall be subject to enforcement under the enforcement provisions of
622 Chapter 1.6.

623
624 All signs, if in existence prior to adoption of this chapter, shall be maintained and kept in good repair
625 and in a safe condition. Maintenance of a sign shall include, but is not limited to, periodic cleaning,
626 replacement of flickering, burned out or broken light bulbs or fixtures, repair or replacement of any
627 faded, peeled, cracked, or otherwise damaged or broken parts of a sign, and any other activity
628 necessary to restore the sign so that it continues to comply with the requirements and contents of
629 the sign permit issued for its installation, if required, and the provisions of this chapter.

630
631 **B. Removal.**

- 632
633 1. Every person maintaining a sign must, upon vacating the premises where a sign is maintained,
634 remove or cause to be removed said sign within 180 days from the date of vacating the premises.
635 When the Director determines that said sign has not been removed within said period, the
636 Director shall remedy and enforce said violation in accordance with the enforcement provisions
637 of this chapter.
638
639 2. Any vacant or unused sign support structures, angle irons, sign poles, or other remnants of old
640 signs which are currently not in use, or are not proposed for immediate reuse by a sign permit
641 application for a permitted sign, shall be removed.
642
643 3. The Director shall have the authority to require the repair, maintenance, or removal of any sign
644 or sign structure which has become dilapidated or represents a hazard to the safety, health, or
645 welfare of the public, at the cost of the sign and/or property owner.
646
647 4. Any sign posted in violation of this chapter on public property or on public rights-of-way shall be
648 subject to summary removal by the City.
649
650 5. Any person responsible for any sign posting made in violation of this chapter shall be liable to the
651 City for the costs incurred by the City in removal thereof and, in event of failure to pay, for billing
652 and collection charges, including interest and reasonable attorneys' fees.
653

654 **Chapter 7.3 Temporary Signs.**

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656 A. Temporary signs, identified in this chapter as not requiring a sign permit, unless indicated below, must
657 otherwise meet all the applicable requirements of this section and this article. Any temporary sign not
658 meeting these requirements, in any way, including quantity, shall be treated as a non-exempt sign
659 subject to permitting. The area of temporary signs displayed on a site shall not be included in the
660 calculation of the total signage on such site.
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B. A-Frame Signs	
Applicable Zoning District/Use	Non-Residential Zoning Districts and lawfully existing Non-Residential Uses in Residential Zoning Districts
Sign permit required	No

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Number of signs	1 per business, as identified by business tax receipt
Maximum Area	An A-frame sign shall not have a copy area wider than 24 inches by 36 inches
Maximum Height	3 feet 6 inches
Location	No A-frame sign shall block accessibility or be placed in any public right-of-way, exit, loading zone, bicycle rack, wheelchair ramp, sidewalk ramp, in designated parking spaces, in landscape areas, traffic triangles, or sidewalks.
Duration	None
Materials	An A-frame shall be constructed of materials that are durable and weather resistant, including wood, steel, fiberglass, plastic, or aluminum. Construction of the sign shall be of professional quality. Signs may consist of a framed chalkboard, whiteboard, tack board, or material that allows changeable copy. An A-frame sign shall be constructed to be able to withstand wind and other unpredictable weather elements, including thunderstorm activity. The sign face and the sign frame shall not contain glitter, florescent materials, streamers, balloons, or reflective materials.
Other	1. No A-frame sign shall be permanently anchored or secured to any surface. 2. Signs shall be brought indoors at the close of each business day.

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C. Banners	
Applicable Zoning District/Use	Non-Residential Zoning Districts and lawfully existing Non-Residential Uses in Residential Zoning Districts
Sign permit required	Yes
Number of signs	1
Location	Except as provided for banners permitted in conjunction with temporary satellite sales events or special events that are located on unimproved property or with events that are in lawfully permitted structures other than buildings (such as tents), no banner shall be attached to, placed on, displayed from, or mounted on any object other than a building, including but not limited to, trees or other vegetation, vehicles, trailers, utility poles, freestanding signs, or stakes. Each end of a displayed banner shall be secured to the building at which the banner is displayed.
Duration	10 consecutive days
Other	1. All banners displayed on a site shall be securely installed in a manner which will not impede the visibility of the motoring or pedestrian traffic. 2. At least 28 days must elapse from the expiration of one permit prior to the issuance of another permit for the display of a banner at a site.

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D. Sign(s) associated with on-site construction projects			
Applicable Zoning District/Use	Single-Family Zoning Districts	All other zoning districts; site less than one acre	All other zoning districts; site one acre or more
Active building permit required	Yes, except as provided in B. of "Duration" herein		

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Sign Permit Required	No		
Number of Signs	3 per site	3 per site	6 per acre
Maximum Area	16 square feet for sites less than one acre; 32 square feet for sites one acre or more	16 square feet	32 square feet
Maximum Height	8 feet		
Location	Shall not be in the right-of-way		
Duration	<ol style="list-style-type: none"> 1. Each sign associated with on-site construction projects that require a building permit shall be removed upon: <ul style="list-style-type: none"> Expiration of the building permit for the on-site construction; or No later than 10 days after issuance of the certificate of occupancy for the on-site building; whichever date is earlier. 2. Each sign associated with incidental projects or work that does not require a building permit shall be removed upon the completion of the work performed or within 30 days, whichever occurs first. 		

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E. Feather Banners	
Applicable Zoning District/Use	Permitted only conjunction with an approved and active Model Home Use
Sign permit required	No
Number of signs	A model home on a single site with one model home may display 4 feather banners and 1 banner on the model home site. Corner-lot model home sites shall be allowed a total of 4 feather banners with no more than 2 per side. For model home sites with two or more model homes approved through a single development application, one model will be allowed to have a freestanding sign, but will not be permitted to have more than 1 feather banner or banner for that individual development site. The additional model homes regulated by the special exception shall be allowed to have 4 feather banners on each model home site.
Maximum Width	3 feet
Maximum Height	15 feet from ground level including support portion of the banner.
Materials	The sign face of the feather banner shall be nylon, polyester, vinyl, or canvas. Neither the sign face nor the sign frame shall contain glitter, florescent materials, metal, or reflective materials.
Duration	Life of the active Special Exception or until converted to new use. Feather banner or banner signs shall only be displayed on the approved special exception home property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Sunday. When the model home is not open, all feather banners and banners shall be removed and stored inside the model home.
Other	All banners and feather banners shall be maintained in good condition and shall not become faded, torn, or in other similar forms of poor condition.

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F. Inflatable Objects	
Applicable Zoning District/Use	All districts

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Size	2 feet or less in width, diameter, and height	More than 2 feet in width, diameter, or height
Sign Permit Required	No	Yes
Number of Signs	4	2
Maximum Height when measured from ground	30 Feet	30 Feet
Location	No less than 10 feet from right-of-way	
Duration	Not limited	Maximum 10-day duration; minimum 28 days required between permits
Other	<ol style="list-style-type: none"> 1. Inflatable objects that are 2 feet or less in width, diameter, and height and that contain no commercial message may be located or displayed on a site without obtaining a permit. 2. Inflatable objects that are greater than 2 feet in width, diameter, or height or that contain a commercial message may be located or displayed on a site provided that a permit is obtained. 3. Inflatable objects shall be erected using approved tie-down methods. 4. No inflatable object shall be displayed in a parking space necessary for the site to meet its minimum parking requirements. 5. Except for multiple business or entity sites, the display of inflatable object(s) on a site shall not exceed a period of 10 consecutive days. 6. On multiple business or entity sites, each use located on the site shall be treated as if it were a single business or entity site. 7. The area of the inflatable object(s) displayed on a site shall not be included in the calculation of the total signage on such site. 8. Inflatable objects shall not be placed on the roof of a structure. 	

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G. Signs located on properties for sale/lease			
Applicable Zoning District/Use	All Districts		
Linear Frontage	Less than 200 linear feet of street frontage	200 to 600 linear feet of street frontage	Greater than 600 linear feet of street frontage
Sign Permit Required	No		
Number of Signs	1 per parcel or per individually owned unit, plus 1 per lot or individually owned unit for golf course or waterway frontage. A maximum of 4 sign blades may be attached to the sign and support structure.	1 per parcel or per individually owned unit, for each public street abutting property, plus 1 per lot or individually owned unit for golf course or waterway frontage. A maximum of 4 sign blades may be attached to the sign and support structure.	
Maximum Area	4 square feet	16 square feet for whole property or if individually owned,	32 sq. ft. for whole property or if individually owned,

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		and in lieu of other signage, then one 4 square foot sign per unit	and in lieu of other signage, then one 4 square foot sign per unit
Maximum Height	6 feet	6 feet	6 feet
Location	Shall not be in the right-of-way		
Duration	Removed no more than 10 days after close of sale, lease, or rental		

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H. Open House Signs			
Applicable Zoning District/Use	All residential zoning districts		
Type of Sign	On-Site Signs	On-Site Flag Standards	Temporary Directional Signs
Certificate of Occupancy	Yes		
Sign Permit Required	No		
Number of Signs	1	2	2
Maximum Area	4 square feet	4 square feet	4 square feet
Maximum Height	2 feet	4 feet	2 feet
Location	Shall not be in right-of-way		
Duration	Hours of Open House		
Other	Open house signs that meet the definition of feather banner are prohibited.		

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I. Election Signs		
Applicable Zoning District/Use	Residential uses in residential districts and model home sites in any district	Non-residential districts and legal, non-residential uses in residential districts
Sign Permit Required	No	
Number of Signs	1 per 10 linear feet of street frontage	1 per 20 linear feet of street frontage
Maximum Area	4 square feet	16 square feet
Maximum Height	5 feet	10 feet
Location	Shall not be in right-of-way	
Duration	30 days prior to primary or 90 days prior to general election until 10 days after election addressing issue	
Additional Requirements	None	Prior to placement, the owner of the election signs shall provide a list of locations of the signs, and written permission from each property owner or his or her authorized agent for placement of the signs
Other	If an election sign does not conform to the conditions and regulations applicable to residential signs or non-commercial signs for the site at which	

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	the sign is located or if the one "residential sign" or "non-commercial sign" allowed as exempt (reference) is already located on the site at which the aforesaid election sign is located, then any such election sign displayed on a site outside of the aforesaid time period or the excess election signs shall no longer be deemed to be an "exempt" sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
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J. Temporary Directional Signs	
Applicable Zoning District/Use	All districts
Sign Permit Required	No
Number of signs	2
Maximum Area	4 square feet
Maximum Height	4 feet
Location	Shall not be in right-of-way
Duration	48 hours prior to event until 24 hours after event
Other	Temporary directional signs shall only be located on private property (upon the permission of the private property owner).

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K. Signs on properties containing temporary office structures		
Applicable Zoning District/Use	Residential Zoning Districts	All Non-Residential Districts
Sign Permit Required	Yes	Yes
Number of signs per site	2	2
Maximum Area	18 square feet if building within 100 feet of property line; 32 square feet if building 100 feet or more from property line	See allowed building mounted signage as provided in § 7.15.2.A of this article
Location	Attached to temporary office structure	
Duration	From legal occupancy of structure to not more than 10 days after vacancy	

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Chapter 7.4 Permanent Signs

Section 7.4.1. Permanent Signs - Residential

A. Sign Type	Regulations		Other Requirements
Residential Signs			
Single Family	Maximum Number	1	
	Area (Max Sq. Ft.)	4	
	Height	5	
	Permit Required	No	
Multi-Family 2-6 Units in RMM and RML	Maximum Number	1/Street Frontage not to exceed 2	
	Area (Max Sq. Ft.)	16/sign	
	Height	10	
	Permit Required	No	
Multi-Family Greater Than 7 Units in RMM and RML	Maximum Number	1/Street Frontage not to exceed 2	
	Area (Max Sq. Ft.)	24/sign	
	Height	10	
	Permit Required	No	
Directional Signs	Maximum Number	1	A permanent directional sign may be located or installed on private property by the property owner or within the public right-of-way by a private business on behalf of the City of Cape Coral if necessary to direct the public to a hidden or difficult to access location.
	Height/Width	54"/56"	
	Height	24" to the bottom of the sign from ground.	
	Permit Required	No	
Flags	Maximum Number	N/A	Flags that bear no commercial message. Flags bearing commercial messages shall require a permit and shall be calculated in the sign area located on the site. Flags bearing an
	Area (Max Sq. Ft.)	N/A	
	Height	N/A	
	Permit Required	No	

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			incidental sign message shall be treated in the same manner as incidental signs.
Incidental Signs			
Single Family	Maximum Number		
	Area (Max Sq. Ft.)		
	Height		
	Permit Required		
Multi-Family 2-6 Units in RMM/RML	Maximum Number	3	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6	
	Height	N/A	
	Permit Required	No	
Multi-Family Greater Than 7 Units in RMM/RML	Maximum Number	3	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6	
	Height	N/A	
	Permit Required	No	
Interior Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	No	
Handheld Signs	Maximum Number	N/A	

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	Area	N/A	Hand held signs or signs worn as part of a costume or item of clothing that do not contain a commercial message. For the purposes of this article, all signs on non-residential property shall be presumed commercial; however, the presumption shall be considered rebuttable and may be overcome if a reasonable person could logically conclude that the presumption is invalid. Nothing in this provision shall be construed to exempt persons who display such signs from other legal requirements, including, but not limited to, those relating to traffic, privacy, and trespass.
	Height	N/A	
	Permit Required	No	
Non-Commercial Signs in Traditional Public Forum/Rights of Way	Maximum Number	1	The sign must be hand-held or worn as an item of clothing; The sign must not be affixed to the ground or otherwise rendered freestanding; and The sign must not be displayed on a median of a divided roadway and must not unreasonably obstruct or interfere with the normal flow of vehicle and pedestrian traffic.
	Area	N/A	
	Height	N/A	
	Permit Required	No	

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Section 7.4.2. Permanent Signs - Non-Residential

Sign Requirements Non-Residential Zoning Districts and Lawfully Existing Non-Residential Uses in Residential Zoning Districts

Sign Type	Regulations		Other Requirements
Awning Signs	Maximum Number	N/A	
	Area (Max Sq. Ft.)	8	

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	Height	N/A	
	Permit Required	No	
Building Signs	Maximum Number	Article 7.2.5	
	Area	Article 7.2.5	
	Height	Article 7.2.5	
	Permit Required	Yes	
Development Identification Signs	Maximum Number	1 (See other requirements)	<p>Boulevard entrances. At residential subdivision or residential development entrances which contain a median strip separating the entrance and exit lanes, either one freestanding sign may be in the median strip of the entrance or two single-faced signs equal in size may be located on each side of the entrance.</p> <p>Non-boulevard entrances. At subdivision or residential development entrances which do not contain a median strip separating the entrance and exit lanes, either one double-faced sign facing perpendicular to the street or two single-faced signs equal in size and located on each side of the entrance may be erected or located.</p> <p>Location. Except when allowed in the entrance median strip, development signs shall be located on private or commonly owned property and shall be set back a minimum of 15 feet from the edge of the entrance way pavement. A development sign may incorporate or be incorporated into landscaping, or into accessory entrance structural features including, but not limited to, a fountain or wall.</p>
	Area (Max Sq. Ft.)	32 Sq. Ft.	
	Height	10 Ft.	
	Permit Required	Yes	

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			Development signs may be illuminated only by means of exterior lights which are shielded so that light does not interfere with vehicular or pedestrian traffic.
Directional Signs	Maximum Number	1	A permanent directional sign may be located or installed on private property by the property owner or within the public right-of-way by a private business on behalf of the City of Cape Coral if necessary to direct the public to a hidden or difficult to access location.
	Height/Width	54"/56"	
	Height	24" to the bottom of the sign from ground.	
	Permit Required	No	
Electronic Message Centers	Maximum Number	Article 7.2.5	See Section 7.4.3.2 Miscellaneous Signs
	Area	Article 7.2.5	
	Height	Article 7.2.5	
	Permit Required	Yes	
Fascia Signs in South Cape (SC) Zoning District	Maximum Number	N/A	In the South Cape zoning district only, projecting signs may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney.
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Flags	Maximum Number		Flags that bear no commercial message. Flags bearing commercial messages shall require a permit and shall be calculated in the sign area located on the site. Flags bearing an incidental sign message shall be treated in the same manner as incidental signs.
	Area		
	Height		
	Permit Required		
Freestanding Signs	Maximum Number	Article 7.2.5	Not incidental or residential.
	Area	Article 7.2.5	

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	Height	Article 7.2.5	
	Permit Required	Yes	
Gasoline Pricing Signs	Permit Required	Yes	See Section 7.4.3.A Miscellaneous Signs
Incidental Signs	Maximum Number	N/A	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6	
	Height	6	
	Permit Required	No	
Integral Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Interior Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	No	
Marquee Signs in South Cape (SC) only	Maximum Number	N/A	Projecting signs may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney.
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Memorial Signs	Maximum Number	N/A	
	Area	N/A	

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	Height	N/A	
	Permit Required	No	
Menu Board(s)/Pre-Sale Board(s)	Maximum Number	Menu Board 1/Drive-Through Pre-Sale Board 1/Drive Through	
	Area	32 Sq. Ft./12 Sq. ft.	
	Height	N/A	
	Permit Required	Yes	
Model Home Signs	Maximum Number	1	Both sides of sign can be used for advertising. Must be on a site with an approved special exception or conditional use for a model home.
	Area	32 Sq. Ft.	
	Height	10 Ft.	
	Permit Required	Yes	
Non-Commercial Signs	Maximum Number	1	May be freestanding or building sign.
	Area	4	
	Height	5	
	Permit Required	No	
Handheld Signs	Maximum Number	N/A	Hand held signs or signs worn as part of a costume or item of clothing that do not contain a commercial message. For the purposes of this article, all signs on non-residential property shall be presumed commercial; however, the presumption shall be considered rebuttable and may be overcome if a reasonable person could logically conclude that the presumption is invalid. Nothing in this provision shall be construed to exempt persons who display such signs from other legal requirements, including, but not limited to, those relating to traffic, privacy, and trespass.
	Area	N/A	
	Height	N/A	
	Permit Required	N/A	

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Non-Commercial Signs in Traditional Public Forum/Rights of Way	Maximum Number	1	The sign must be hand-held or worn as an item of clothing; The sign must not be affixed to the ground or otherwise rendered freestanding; and The sign must not be displayed on a median of a divided roadway and must not unreasonably obstruct or interfere with the normal flow of vehicle and pedestrian traffic.
Name Plate Signs	Maximum Number	1/Building Entrance	Must be attached to building.
	Area	2 Sq. Ft.	
	Height	N/A	
	Permit Required	No	
Suspended Signs	Maximum Number	1/Business Entrance	
	Area	4 Sq. Ft.	
	Height	8 Feet of minimum vertical clearance from any sidewalk, private drive, parking area, or public street.	
	Permit Required	No	
Window/Door Signs	Maximum Number	See Other Regulations.	On each side of a building, no more than 50% of the total glazed area of windows and doors on the first floor of that side of the building may contain a window/door sign or signs. If a window/door sign or signs cover more than 50% of the glazed area of the first-floor windows and doors on the side of the building where the window/door signs are located, the window/door sign or signs are no longer exempt. Any window/door sign or signs located above the first floor of a building shall not be
	Area	See Other Regulations.	
	Height	N/A	
	Permit Required	No	

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			deemed an exempt sign and shall require a permit.
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Section 7.4.3. Miscellaneous Signs

A. Gasoline Pricing Signs

In addition to any other signage allowed herein, automobile service stations and other commercial uses lawfully containing fuel pumps for the sale of fuel to the public shall be allowed an additional 24 square feet of signage to advertise gasoline pricing provided that the gasoline pricing sign(s) shall be incorporated into a freestanding sign or located flat on the building or canopy.

Those sites located at the intersection of two platted streets shall be permitted one additional freestanding sign to be placed on the second platted street for the sole purpose of displaying gasoline prices. The second sign shall not exceed a total of 24 square feet of which a maximum of 25% may be utilized for the business name or logo.

B. Electronic Message Center or Sign (EMC). Electronic message center or sign shall meet the following criteria:

1. The brightness or intensity of the sign shall be factory set not to exceed 5,000 nits (or 464.52 lumens per square foot) between sunset and sunrise.
2. If the electronic message sign is a text-only message displays, then the text may move along the face of the sign, but the text shall not exceed 12 inches in height.
3. Only one electronic message sign shall be allowed per site.
4. An electronic message sign shall not be installed on a non-conforming sign.
5. Minimum display time is 8 seconds.

All electronic message center or sign not meeting these criteria are prohibited under § 7.2.2 of this article.

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CHAPTER 1. GENERAL PROVISIONS

- Section 7.1.1.** Purpose and Intent
- Section 7.1.2.** Scope
- Section 7.1.3.** Compliance with Codes and Ordinances
- Section 7.1.4.** Substitution
- Section 7.1.5.** Severability
- Section 7.1.6.** Definitions

CHAPTER 2. ADMINISTRATION

- Section 7.2.1.** Prohibited Signs
- Section 7.2.2.** Signs in the Public Right of Way
- Section 7.2.3.** Activities Exempt from Permitting
- Section 7.2.4.** Requirements Applicable to All Signs
- Section 7.2.5.** Maximum Total Sign Area per site
- Section 7.2.6.** Sign Permits
- Section 7.2.7.** Non-conforming Signs
- Section 7.2.8.** Sign Deviations
- Section 7.2.9.** Maintenance of Signs

CHAPTER 3. TEMPORARY SIGNS

CHAPTER 4. PERMANENT SIGNS

- Section 7.4.1.** Permanent signs- Residential
- Section 7.4.2.** Permanent signs- Non- Residential
- Section 7.4.3.** Miscellaneous signs

CHAPTER 1. GENERAL PROVISIONS

Section 7.1.1. Purpose and Intent

It is the purpose of this Article to promote the public health, safety, and general welfare through reasonable, consistent, and non-discriminatory sign standards. The sign regulations in this Article are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs. The sign regulations are especially intended to address the secondary effects that may adversely impact aesthetics and traffic and pedestrian safety. The sign regulations are designed to serve substantial governmental interests and, in some cases, compelling governmental interests, such as traffic safety and warning signs of threats to bodily injury or death. This Article is not intended to extend its regulatory regime to objects that are not traditionally considered signs for purpose of government regulation.

In order to preserve and promote the City as a desirable community in which to live, visit, work, play, and do business, a pleasing, visually attractive, and safe environment is of foremost importance. The regulation of signs within the City is a highly contributive means by which to achieve this desired end.

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47 Further it continues to be the purpose of this Article to promote optimum conditions for serving sign
48 owners' needs and respecting their rights to identification while balancing the aesthetic and safety
49 interests of the community. The regulation of signs within the City is necessary and in the public interest,
50 and these regulations have been prepared with the intent of enhancing the visual environment of the City
51 and promoting its continued well-being, and are intended more specifically to:

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- A. Aesthetics. To maintain and enhance the beauty, unique character, aesthetic environment, and quality of the City, that will attract commerce, businesses, economic development, residents, and visitors; to preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all zoning districts of the City; to regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the City and that complements the natural surroundings in recognition of the City's reliance on its natural surroundings and beautification efforts in retaining economic advantage for its community; and to assure that the benefits derived from the expenditure of public funds for the improvement and beautification of streets, sidewalks, public parks, public rights-of-way, and other public places and spaces, are protected by exercising reasonable controls over the physical characteristics and structural design of signs.
- B. Traffic and Pedestrian Safety. To maintain and improve traffic and pedestrian safety through properly located signs; to regulate signs in a manner so as to not interfere with, obstruct the vision of, or distract motorists, bicyclists, or pedestrians; to allow for traffic control devices consistent with national standards and whose purpose is to promote roadway safety and efficiency by providing for the orderly movement of road users on streets and roadways, and that notify users of regulations and provide warning and guidance necessary for the safe, uniform, and efficient operation of all elements of the traffic stream.
- C. Economic Development. To promote economic development and the value of nonresidential properties, through sensitivity to surrounding land uses and maintaining an attractive community appearance.
- D. Effective Communication. To encourage signs which are clear and legible; and to encourage the effective use of signs as a means of communication.
- E. Identification of Goods and Services. To aid the public and private sectors in identifying the location of goods and services.
- F. Compatibility with Surroundings. To allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs; to preclude signs from conflicting with the principal permitted use of the site and adjoining sites; and to minimize the possible adverse effect of signs on nearby public and private property.
- G. Reduction of Visual Clutter. To reduce visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic.

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- 92 H. Zoning District Considerations. To encourage and allow signs that are appropriate to the zoning district
93 in which they are located.
94
- 95 I. Scale, Integration, and Design. To establish sign size in relationship to the scale of the lot and building
96 on which the sign is to be placed or to which it pertains; to foster the integration of signage with
97 architectural and landscape designs; to provide flexibility and encourage variety in signage, and to
98 relate signage to the basic principles of good design; and to promote the use of signs that positively
99 contribute to the aesthetics of the community, are appropriate in scale to the surrounding buildings
100 and landscape, and advance the City’s goals of quality development.
101
- 102 J. Maintenance and Safety. Except to the extent expressly preempted by state or federal law, to ensure
103 that signs are constructed, installed, and maintained in a safe and satisfactory manner, and to protect
104 the public from unsafe signs.
105
- 106 K. Property Values. To protect property values by precluding, to the maximum extent possible, sign types
107 that create a nuisance to the occupancy or use of other properties because of their physical
108 characteristics such as their size (area), height, number, illumination, and movement; and to protect
109 property values by ensuring that the number of signs are in harmony with buildings, neighborhoods,
110 and conforming signs in the area.
111
- 112 L. Enforcement. To enable the fair and consistent enforcement of these sign regulations; and to provide
113 standards regarding the non-communicative aspects of signs, which are consistent with local, county,
114 state, and federal law.
115

Section 7.1.2. Scope

118 This article shall control the regulation of signs and other outdoor displays. If any part of this article
119 conflicts with any other codes adopted by the city, the most restrictive provision shall apply.
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Section 7.1.3. Compliance with Codes and Ordinances

123 No sign shall be erected or maintained in the city, except in accordance with the provisions of this article.
124 All signs erected, installed, or located in the City of Cape Coral shall conform to all requirements of the
125 National Electrical Code, as revised, the Florida Building Code, this article, and other applicable law.
126

Section 7.1.4. Substitution (SAME)

129 It is not the purpose of this article to regulate or control the copy, content, or viewpoint of signs. Nor is it
130 the intent of this article to afford greater protection to commercial speech than to non-commercial
131 speech. Any sign, display, or device allowed under this article may contain, in lieu of any other copy, any
132 otherwise lawful non-commercial message that complies with all other requirements of this article. The
133 non-commercial message may occupy the entire sign area or any portion thereof, and may substitute for
134 or be combined with the commercial message. The sign message may be changed from commercial to
135 non-commercial or from one non-commercial message to another, as frequently as desired by the sign's
136 owner, if the sign is not prohibited and the sign continues to comply with all requirements of this article.
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Section 7.1.5. Severability (SAME)

- A. Generally. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article.
- B. Severability where less speech results. This subsection shall not be interpreted to limit the effect of Section 7.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. The City Council specifically intends that severability shall be applied to these sign regulations even if the result would be to allow less speech in the city, whether by subjecting currently exempt signs to permitting or by some other means.
- C. Severability of provisions pertaining to prohibited signs. This subsection shall not be interpreted to limit the effect of Section 7.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. The City Council specifically intends that severability shall be applied to Section 7.2.1 of this article, "Prohibited signs," so that each of the prohibited sign types listed in that section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.
- D. Severability of prohibition on off-premises signs and commercial signs. This subsection shall not be interpreted to limit the effect of Section 7.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. If any, or all, of this article or any other provision of the code is declared unconstitutional or invalid by the final and valid judgment of any court of competent jurisdiction, the City Council specifically intends that that declaration shall not affect the prohibition of off-site signs in Section 7.2.1 of this article.

Section 7.1.6. Definitions

Article 13 of this code contains definitions as they relate to this article.

Chapter 2. Administration

Section 7.2.1. Prohibited Signs

The following signs are prohibited:

- A. Abandoned signs;
- B. Animated signs, except electronic message centers, electronic laser, video, or digital display signs in which the messages change at intervals of eight seconds or greater in duration, provided such signs comply with the requirements of Section 7.4.3;
- C. Back Lit Awning Signs;

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- 184 D. Unless allowed under Section 7.2.2 of this article, signs on public property, rights-of-way, or attached
185 to trees or utility poles, other than by or with the permission of the owner of the public property or
186 right-of-way;
187
- 188 E. Signs attached to fences on improved, non-residential property; however, this prohibition shall not
189 extend to signs attached to recreational fences around activity fields, playgrounds, or playing fields
190 (such as football fields, baseball diamonds, etc.) in public parks owned and operated by one or more
191 governmental entities and where the signs:
192
- 193 1. Are only visible from inside the park, or
 - 194 2. If visible from outside the park, face the inside of the park;
- 195
- 196
- 197 F. Figure structured signs;
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- 199 G. Obscene signs;
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- 201 H. Off-site signs;
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- 203 I. Parasite signs;
- 204
- 205 J. Projected image signs;
- 206
- 207 K. Portable signs;
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- 209 L. Roof signs;
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- 211 M. Special event signs, except with special event permit; and
- 212
- 213 N. Vehicle signs.
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Section 7.2.2. Signs in the Public Right of Way (SAME)

- 215
- 216
- 217 A. Signs allowed in the public right-of-way. No signs shall be erected, installed, or located in the public
218 right-of-way or shall project over the public right-of-way, except permanent signs of the following
219 type(s):
220
- 221 1. Public signs erected by or on behalf of a governmental body to post legal notices, identify public
222 property, convey public information, announce public events, and direct or regulate pedestrian
223 or vehicular traffic.
224
 - 225 2. Signs that are placed within or on structures that are public service related, including bus stop
226 signs, bench/shelter signs, and other informational signs. These structures shall be erected by or
227 on behalf of a public transit or communications company or the city. These structures and the
228 character, size, content, nature, and design of signs on such structures shall be approved by the
229 city through a contract or other agreement approved by the City Council prior to the erection of

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230 such structures or the installation of such signs. If such structures cannot be in the public right-of-
231 way as the result of safety factors, right-of-way constraints, or other factors or if it is more
232 practicable to locate such structures on a site other than public right-of-way, the structure may
233 be placed on private property, provided that prior written consent is obtained from the property
234 owner.

235
236 3. Informational signs of a public utility regarding its poles, lines, pipes, or facilities.

237
238 4. Development identification signs in conformity with 7.4.2

239
240 5. Directional signs in conformity with 7.4.2

241
242 6. Non-commercial signs in conformity with 7.4.2

243
244 B. Removal and forfeiture of unauthorized sign in the public right-of-way. The city shall have the right to
245 remove from the public right-of-way any sign which is erected, installed, or located in such public
246 right-of-way and which does not conform to the requirements of this article. Such signs shall be
247 deemed to have been forfeited to the city and the city shall have the right to dispose of such signs as
248 it sees fit. In addition to other remedies, the city shall have the right to recover from the owner of
249 such sign or the person responsible for placing the sign in the public right-of-way all costs associated
250 with the removal or disposal of the sign.

251
252 **Section 7.2.3. Activities Exempt from Permitting (OLD – SEPARATED OUT)**

253
254 The following types of activities are exempt from the permitting requirements of this article:

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256 A. Changing the advertising copy, announcement, or message on a marquee or changeable copy sign
257 board so designed to alter such copy; subject to any restrictions in this article, including frequency
258 limitations;

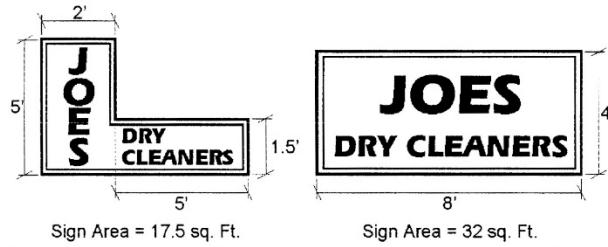
259
260 B. Cleaning, painting, or electrical or comparable general maintenance or repair of a sign that does not
261 alter any regulated feature of such sign; and

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263 C. Changing the message or locating official public notices or traffic control signs.

264
265 **Section 7.2.4. Requirements Applicable to All Signs (SAME)**

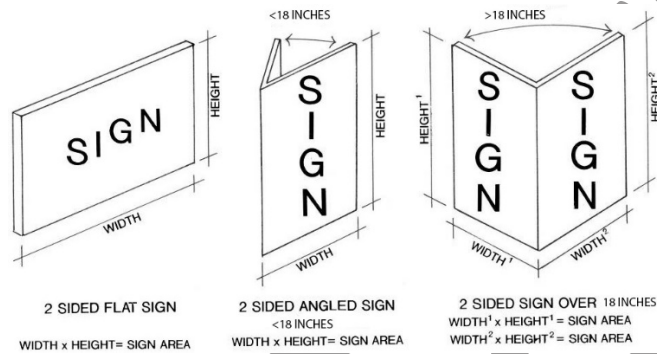
266
267 A. Computation of sign area. The area of a sign shall be measured from the outside edges of the sign
268 or the sign frame, whichever is greater, excluding the area of the supporting structures provided that
269 the supporting structures are not used for advertising purposes and are of an area equal to or less
270 than the permitted sign area. Supporting framework and bracing which are incidental to the display
271 itself shall not be included in the computation of the area unless, by the nature of their design, they
272 form a continuation of the sign.

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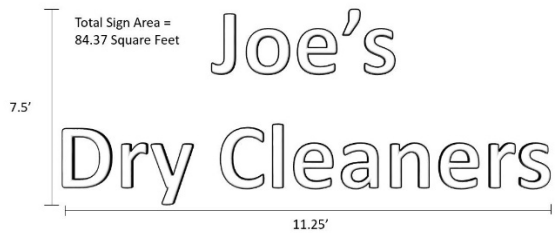
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1. The area of a multi-faced sign shall be computed on one face in the same manner as the sign area of an individual sign, provided that the faces of the sign are not separated at any point by more than 18 inches. If the faces of a multi-faced sign are separated at any point by more than 18 inches, then each face constitutes a separate sign.



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2. Where individual characters are used without a supporting panel (channel letters), the overall dimensions from the beginning of the first character to the end of the last character in the longest line and from the top of the uppermost character to the bottom of the lowermost character shall be regarded as the extreme dimensions in calculating the overall sign area of the sign.



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- B. Computation of height. The vertical height of a freestanding sign shall be computed from the established mean grade of the development site to the highest component of the sign or supporting framework, whichever is higher. The maximum vertical height of a building mounted sign shall not exceed the roof line of the structure.
- C. Location of signs on property.

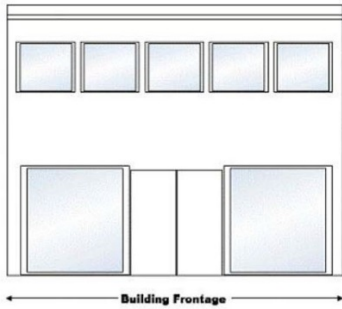
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- 295 1. Setbacks. The distance of a sign from a property line, right-of-way, or other point shall be
296 computed by measuring a perpendicular line from the foremost part of the sign to the ground
297 and then measuring from that point to the nearest point of the property line, right-of-way, etc.
298
- 299 2. Distance between freestanding signs. A minimum distance of 25 feet shall be maintained between
300 freestanding signs regardless of whether such signs are on one site or whether they are located
301 on adjacent sites.
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- 303 3. Location. No sign may project beyond the property line(s) of the property on which the sign is
304 located, except that sign(s) may be flush-mounted to the walls of buildings which are constructed
305 with a zero setback from the property line. Except as otherwise provided herein, signs shall be
306 located on the same site on which the advertised goods or services are available. No part of any
307 banner, sign, flag, or flagpole shall be hung, attached, or erected in any manner as to project into
308 the right-of-way.
309
- 310 4. Freestanding signs are prohibited in the 6' perimeter utility easement.
311
- 312 D. Illumination. Signs may be illuminated by any method not prohibited by this article provided that any
313 light source shall be shielded in such a manner as to prevent direct rays of light from being cast into
314 an occupied residence, hotel or motel room, a commercial business, at any pedestrian traveling upon
315 a street or sidewalk, or any vehicle traveling upon a public street.
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Section 7.2.5. Maximum Total Sign Area Per Site

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- 318
- 319 A. Residential uses in residential zoning districts. Except for signs identified as permitted, no signs are
320 allowed on sites containing residential uses in residential zoning districts. Any sign on a residential site
321 in a residential zoning district shall comply with the provisions for such sign(s).
322
- 323 B. Non-residential uses in all zoning districts. Except as otherwise provided in this chapter, the number
324 of building signs located on property lawfully used for non-residential purposes shall not be limited
325 so long as the cumulative total sign area (in square feet) of all such signs, except exempt signs, does
326 not exceed the building sign allowance for the property. The allowable building sign area (in square
327 feet) of all signs, except exempt signs, erected, installed, or located on a site lawfully containing a non-
328 residential use in any zoning district shall be computed as follows:
329
- 330 1. Building mounted signs.
331
- 332 a. If a building contains more than one floor or story, the dimension of the primary side of the
333 building shall be determined by measuring (in linear feet) the overall width of the first floor
334 or story of the building on the side that faces the front lot line and the sign allowance for each
335 business establishment or other entity occupying the building shall be shared by such business
336 establishments or other entities as determined by the property owner based on the frontage
337 of the building.
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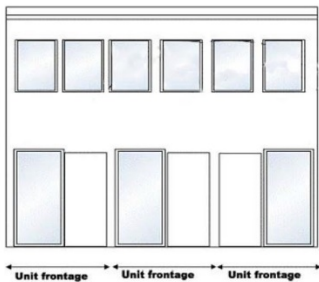
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Structural Building Frontage Single Unit

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- b. If a building contains more than one business establishment or other entity, but the exterior of the building has not been subdivided into units, the sign allowance for each business establishment or other entity occupying the building shall be shared by such business establishments or other entities as determined by the property owner based on the frontage of the building.
- c. If all or part of the exterior of a building has been subdivided into two or more fully enclosed units capable of containing one or more business establishments or other entities (such as a multiple unit shopping center), the front dimension of each such unit shall be considered the building frontage of the unit and the sign allowance for each business establishment or other entity occupying such unit shall be shared among the business establishments or other entities occupying such unit in the manner prescribed by the property owner. Any remaining part of the exterior of the building which has not been subdivided into fully enclosed units shall be treated the same as a building which has not been subdivided into units.



Structural Building Frontage Multiple Unit Building

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- d. If a single business establishment or other entity occupies more than one consecutive fully enclosed unit, the building frontage of such business or other entity shall be the total linear dimension of building frontage of all such units combined.
- e. The allowable signage to be mounted on a building shall be based on the building frontage of a business or other entity as follows:

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Linear Feet of Structural Frontage	Square Feet/Linear Feet of Structural Frontage	Maximum
≤100 Linear Feet	2 Square Feet	100 Square Feet
>100 Linear Feet to ≤300 Linear Feet	1 Square Foot	200 Square Feet
>300 Linear Feet	.75 Square Feet	300 Square Feet
In the event a building is located on a lot that does not abut a public street, the frontage shall be measured along the publicly dedicated parking lot or platted alley that the lot fronts		

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- f. In addition to the sign area otherwise allowed in this section, business establishments or other entities which meet the following criteria shall be allowed additional sign area for building-mounted signs as follows:
 - i. Businesses or other entities fronting on more than one platted street shall be permitted an additional sign area allowance of one-half square foot per linear foot of building frontage on such additional street up to a maximum of 50 square feet per street. Such additional sign area allowance for a second street shall be added to the building-mounted sign area allowance resulting from the building frontage calculation. If a business or other entity fronts on three or four streets, then the additional sign allowance resulting from frontage on the third and/or fourth streets shall be used on the building face actually abutting the third and/or fourth streets. For purposes of this article, when a business or other entity fronts three or four streets, the side(s) of the business establishment or other entity shall be deemed to be fronting on the second and, if applicable, the fourth streets and the rear of the business establishment or other entity shall be deemed to front on the third street.
 - ii. Businesses or other entities whose side or rear building frontages abut a public alley, public parking area, or mall parking area shall be permitted an additional allowance of one-half square foot per linear foot of such side or rear building frontage up to a maximum of 50 square feet. Such additional allowance shall only be used on the side or rear of the building which actually abuts the public alley, public parking area, or mall parking area.
- C. Freestanding signs.
- 1. Individual business or entity sites.
 - a. Except as otherwise provided in Section 7.4.3 of this article, "Gasoline pricing signs," no site shall have more than two freestanding signs.
 - b. The allowable freestanding sign area (in square feet), the maximum number of freestanding signs, and the maximum height of freestanding signs erected, located, or placed on lawfully

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398 existing non-residential uses in all zoning districts shall be based on the street frontage of the
399 site.

400
401 c. When only one freestanding sign is permitted, the sign shall provide architectural design
402 features, including colors or materials or both consistent with those used in the design of the
403 building to which the sign is accessory. These features shall apply to the sign frame and
404 supporting materials, not to the sign panel or panels that provide the actual advertising area.

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406 d. When two freestanding signs are permitted, signs must be similar in design, color and
407 materials.

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409 e. For all individual non-residential use sites, the following maximum freestanding sign(s)
410 number, maximum freestanding sign area, and height limitations shall apply:
411

Freestanding Signs	Individual businesses or entities	Individual businesses or entities in Preserve Zoning Districts	Individual businesses or entities on Pine Island Road (SR 78), Veterans Parkway, US 41, and Burnt Store Road
Sign are based on street frontage (linear feet)			
100 feet or less	30 square feet	24 square feet	36 square feet
101-200 feet	40 square feet	24 square feet	48 square feet
201-300 feet	52 square feet	24 square feet	60 square feet
301+ feet	65 square feet	24 square feet	75 square feet
Height (feet):	20	20	25
Maximum Number:			
Site with less than 500 linear feet abutting a single street	1	1	1
Site with 500 or more linear feet abutting a single street	2	1	2
1. When more than one freestanding sign is permitted on the same site, signs must be spaced a minimum of 300 feet apart.			

412
413 2. Multiple business or entity sites.

414
415 a. When only one freestanding sign is permitted, the sign shall provide architectural design
416 features, including colors and/or materials consistent with those used in the design of the
417 building the sign is accessory to. These features shall apply to the sign frame and supporting
418 materials, not to the sign panel or panels that provide the actual advertising area.

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- b. On sites that are approved through a Planned Unit Development which contain commercial, professional, industrial, mixed use, or agricultural uses together with residential properties as part of the same Planned Unit Development, and the residential uses front the road on which the development faces with non-residential uses located inside the development not visible from the road, the Director, may allow signs that are used to direct motorists to facilitate finding the non-residential component of the development. The Director, shall take into consideration factors that include:
- (i) The location of the non-residential uses within the development;
 - (ii) The location of permitted signage for the non-residential uses within the development; and
 - (iii) Roadway conditions.
- c. Although the distribution of freestanding signage among the tenants or occupants of a multiple business or entity site shall be the responsibility of the real property site owner, the following limitations concerning maximum number, sign area, and height of freestanding signs shall apply to all multiple business or entity sites containing non-residential uses:

Freestanding Signs	Multiple business or entity sites	Multiple business or entity sites in Preservation Zoning Districts	Multiple business or entity sites on Pine Island Road (SR 78), Veterans Parkway, US 41, and Burnt Store Road
Sign are based on street frontage (linear feet)			
100 feet or less	50 square feet	24 square feet	60 square feet
101-200 feet	64 square feet	24 square feet	75 square feet
201-300 feet	80 square feet	24 square feet	100 square feet
301+ feet	100 square feet	24 square feet	150 square feet
Height (feet):	20	20	25
Maximum Number:			
Site with less than 500 linear feet abutting a single street	1	1	1
Site with 500 or more linear feet abutting a single street	2	1	2
1. When more than one freestanding sign is permitted on the same site, signs must be spaced a minimum of 300 feet apart. 2. In the event the depth of the property is at least three times the length of the street frontage (linear feet), an additional 25% of sign area is allowed.			

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438 **Section 7.2.6. Sign Permits**

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440 A. Required. Except as otherwise required, no sign shall be located, placed, erected, constructed,
441 altered, extended, or displayed without first obtaining a sign permit and meeting all requirements of
442 the Florida Building Code. In the event a sign is located, installed, or maintained upon real property
443 without any required permits, after the expiration or lapse of a sign permit, after the closure of a
444 business, or otherwise in violation of the requirements of this article, the owner of the real property
445 shall be deemed to be responsible for the prompt removal of such sign and shall be responsible for
446 and subject to all fines or penalties which shall result from such violation.

447

448 B. Procedure. The procedure for obtaining a sign permit shall in conformance with application
449 requirements in Article 3.1.

450

451 1. Upon request by the Department, the applicant shall provide such supplementary information as
452 may be specifically requested by the Department to determine compliance with this article.

453

454 2. The Department shall review the application, plans, and specifications to determine whether the
455 proposed sign conforms to all applicable requirements of this article and, based on such review,
456 shall either approve or deny the application for the sign permit.

457

458 a. Sign permit applications which include a request for a deviation to this article, pursuant to
459 Section 7.2.8 of this article, shall either be approved or denied. However, if the applicant has
460 applied for a building permit or certificate of use for the non-residential use at the subject site
461 or for an electrical permit for the illumination of a sign, no sign permit shall be issued by the
462 city until after the requested building or electrical permit or certificate of use has been issued
463 by the city.

464

465 b. In no event shall the issuance of a sign permit following the issuance of a building permit, but
466 prior to the completion of the construction project, result in an increase in the sign(s) allowed
467 under this article based on the structure as it is eventually completed. In other words, if the
468 city issues sign permit(s) following the issuance of a building permit, but before the
469 construction of the building or structure is completed, and one or more sign(s) are installed
470 or erected pursuant to such sign permit, but then the building plans are modified in such a
471 way as to reduce the number, size, etc. of the sign(s) which would be allowed under this
472 article, then the property owner shall be required to bring such sign(s) into compliance with
473 the provisions of this article and to obtain a valid sign permit for such sign(s).

474

475 C. Submission requirements. No request for a sign permit shall be considered complete until all required
476 documents and fees are received.

477

478 D. Plans and specifications. Plans and specifications for any proposed sign shall be drawn to scale and
479 shall include the following:

480

481 1. Dimensions and elevations, including the message of the sign;

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483 2. Parcel frontage on all street rights-of-way for freestanding signs only;

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3. Linear dimension(s) of the subject building or unit located adjacent to all public rights-of-way such as streets, alleys, and public parking lots for freestanding signs only;
 4. Maximum height of the sign, as measured in accordance with this article;
 5. Location of the sign in relation to property lines, public rights-of-way, easements, buildings, and other signs on the property;
 6. Dimensions and anchoring of the sign's supporting members;
 7. For illuminated signs, the type, location, and direction of illumination sources;
 8. Construction and electrical specifications, enabling determination that the sign meets all applicable structural and electrical requirements of the building code; and
 9. Number, type, location, and surface area of all existing signs on the same property and/or building on which the sign is to be located, except that in the event all or part of the exterior of a building has been subdivided into two or more fully enclosed units capable of containing one or more business or entity establishments, such as a multiple unit shopping center, the number, type, location, and surface area of all building mounted signs on the unit for which the proposed sign is sought and all freestanding signs on the property shall be included.
- E. Deviations. If a deviation to any requirements of this article is necessary, a request for a deviation shall be included with the initial application for a sign permit pursuant to Section 7.2.8 of this article.
- F. Lapse. A sign permit shall lapse automatically if the business tax receipt for the premises lapses, is revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of 30 days and is not renewed within 30 days from the date a written notice is sent from the city to the last permittee that the sign permit will lapse if such activity is not resumed. A sign permit shall also lapse if the sign for which it is issued either is not erected and/or placed within 180 days following the issuance of the sign permit or is removed for a period of 60 days. Once a sign permit has lapsed, it shall be considered void and a new application and review process shall be necessary to have such a permit reissued.
- G. Identification. All signs requiring a permit shall have the permit number permanently imprinted or otherwise placed in the lower right-hand corner of the sign.
- H. Removal. The permittee and/or the site owner shall be responsible for the removal of a sign once the sign permit has expired or lapsed, without an application for a new permit, or the purpose in displaying the sign has ended.

Section 7.2.7. Non-Conforming Signs.

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529
- A. Non-conforming sign compliance. All signs lawfully erected prior to October 1, 2013 that do not comply with the requirements of this article shall be considered non-conforming signs. All non-

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530 conforming signs shall be removed or brought into conformity with this article no later than January
531 1, 2024. The owners of the real property on which such non-conforming signs exist shall be
532 responsible for ensuring that such signs are removed or brought into conformity. Non-conforming
533 signs shall not be altered, replaced, or repaired if such alteration, replacement, or repair would
534 constitute more than 50% of the replacement value of the non-conforming sign. All other signs that
535 were not lawfully erected prior to October 1, 2013 that do not comply with the requirements of this
536 article shall be removed no later than December 31, 2013.

- 537
- 538 B. Effect of annexation on sign compliance. Any sign that was lawfully erected on property that was
539 located outside of the jurisdiction of the city at the time the sign was erected but which was annexed
540 into the city prior to October 1, 2013 and that does not comply with the requirements of this article
541 shall be considered a non-conforming sign and shall be removed or brought into conformity with this
542 article no later than January 1, 2024. Any sign that was or is lawfully erected on property that was
543 located outside of the jurisdiction of the city at the time the sign is erected but which was annexed
544 into the city on or after October 1, 2013 and that does not comply with the requirements of this
545 article, shall be considered a non-conforming sign and shall be removed or brought into conformity
546 with this article no later than ten years from the effective date of the annexation.
- 547
- 548 C. Restrictions on permitting certain non-conforming signs. Sign permits will not be issued for the
549 alteration, replacement, or repair of a non-conforming sign if such alteration, replacement, or repair
550 constitutes more than 50% of the replacement value of the existing non-conforming sign. Changing
551 the information on the face of an existing non-conforming sign shall not be deemed an action
552 increasing the degree or extent of the non-conformity to constitute a violation of this article. Any
553 other alteration to an existing non-conforming sign will be required to conform to this article.
- 554
- 555 D. Exceptions. A sign which is erected, located, or installed prior to the adoption of this ordinance and
556 which was approved by a dimensional variance from the Board of Zoning Adjustment and Appeals or
557 the City Council shall retain such variance approval. A sign which is erected, located, or installed prior
558 to the adoption of this ordinance and which was approved by a deviation from the Director shall retain
559 such deviation approval. However, any sign which has been approved by such a dimensional variance
560 or deviation and is then changed to conform to this article shall forfeit the sign variance or deviation.

561

562 **Section 7.2.8. Sign Deviations.**

- 563
- 564 A. Deviations. A deviation may be granted from the strict application of the regulations in this chapter
565 which apply to:
- 566
- 567 1. Allow a 25% increase in allowable sign area;
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 - 569 2. Allow a 25% increase in allowable sign height;
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 - 571 3. Allow for decrease in minimum distance between freestanding signs; or
 - 572
 - 573 4. Allow an additional freestanding sign.
- 574

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575 B. Requests for deviations shall be initiated by the applicant in the application for sign permit approval
576 and shall be accompanied by documentation including, but not limited to, sample detail drawings,
577 schematic architectural drawings, site plans, elevations, and perspectives which shall graphically
578 demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the
579 benefit, or at least not to the detriment, of the public interest. Deviations from the provisions of this
580 article may be approved by the Director provided that such deviation will not be contrary to the public
581 interest and in harmony with the general intent and purpose of this article and where one or both of
582 the following criteria are satisfied:

- 583
- 584 1. Conditions exist that are not the result of the applicant and which are such that a literal
585 enforcement of the regulations involved would result in unnecessary or undue hardship; or
586
 - 587 2. There is something unique about the building or site configuration that would cause the signage
588 permitted by this article to be ineffective in identifying a use or structure that would otherwise
589 be entitled to a sign.

590

591 C. Subject to the standards and criteria stated above, the Director shall approve only the minimum
592 deviation from the provisions of this article necessary to avoid the undue hardship or to cause the
593 signage for the site to be effective in identifying the use or structure located on the site. However, no
594 deviation shall be approved that would have the effect of allowing a type or category of sign that
595 would otherwise be prohibited by this article.

596

597 D. Any person aggrieved by the decision of the Director concerning a deviation from the provisions of
598 this article may appeal such decision to the Hearing Examiner in accordance with Article 3.1.14.B
599

600 E. The Hearing Examiner may reverse or affirm, wholly or partly, or may modify the decision appealed
601 from and shall make any order, requirement, decision, or determination that in its opinion ought to
602 be made in the case before it within 60 days of the filing of a notice of appeal. To this end, the Hearing
603 Examiner shall have all the powers of the authority from whom the appeal is taken. The Hearing
604 Examiner's powers on appeal also shall be limited to the powers of the authority from whom the
605 appeal is taken so that the Hearing Examiner shall have the power to approve only the minimum
606 deviation from the provisions of this article necessary to avoid the undue hardship or to cause the
607 signage for the site to be effective in identifying the use or structure located on the site. Neither the
608 variance procedures nor variances themselves shall be available for increasing the number of signs or
609 the sign area to be allowed for a site.

610

611 F. Appeals from the decision of the Hearing Examiner shall be in accordance with the procedures
612 identified in Article 3.1.14.C
613

Section 7.2.9. Maintenance of Signs.

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615

616 A. Maintenance Required.

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618 It is unlawful for any owner of record, lessor, lessee, manager, or other person having lawful
619 possession or control over a building, structure, or parcel of land to fail to maintain any signs on the
620 building, structure, or parcel in compliance with this chapter. Failure to maintain a sign constitutes a

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621 violation of this chapter and shall be subject to enforcement under the enforcement provisions of
622 Chapter 1.6.

623
624 All signs, if in existence prior to adoption of this chapter, shall be maintained and kept in good repair
625 and in a safe condition. Maintenance of a sign shall include, but is not limited to, periodic cleaning,
626 replacement of flickering, burned out or broken light bulbs or fixtures, repair or replacement of any
627 faded, peeled, cracked, or otherwise damaged or broken parts of a sign, and any other activity
628 necessary to restore the sign so that it continues to comply with the requirements and contents of
629 the sign permit issued for its installation, if required, and the provisions of this chapter.

630
631 **B. Removal.**

- 632
633 1. Every person maintaining a sign must, upon vacating the premises where a sign is maintained,
634 remove or cause to be removed said sign within 180 days from the date of vacating the premises.
635 When the Director determines that said sign has not been removed within said period, the
636 Director shall remedy and enforce said violation in accordance with the enforcement provisions
637 of this chapter.
638
639 2. Any vacant or unused sign support structures, angle irons, sign poles, or other remnants of old
640 signs which are currently not in use, or are not proposed for immediate reuse by a sign permit
641 application for a permitted sign, shall be removed.
642
643 3. The Director shall have the authority to require the repair, maintenance, or removal of any sign
644 or sign structure which has become dilapidated or represents a hazard to the safety, health, or
645 welfare of the public, at the cost of the sign and/or property owner.
646
647 4. Any sign posted in violation of this chapter on public property or on public rights-of-way shall be
648 subject to summary removal by the City.
649
650 5. Any person responsible for any sign posting made in violation of this chapter shall be liable to the
651 City for the costs incurred by the City in removal thereof and, in event of failure to pay, for billing
652 and collection charges, including interest and reasonable attorneys' fees.
653

654 **Chapter 7.3 Temporary Signs.**

655
656 A. Temporary signs, identified in this chapter as not requiring a sign permit, unless indicated below, must
657 otherwise meet all the applicable requirements of this section and this article. Any temporary sign not
658 meeting these requirements, in any way, including quantity, shall be treated as a non-exempt sign
659 subject to permitting. The area of temporary signs displayed on a site shall not be included in the
660 calculation of the total signage on such site.
661
662

B. A-Frame Signs	
Applicable Zoning District/Use	Non-Residential Zoning Districts and lawfully existing Non-Residential Uses in Residential Zoning Districts
Sign permit required	No

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Number of signs	1 per business, as identified by business tax receipt
Maximum Area	An A-frame sign shall not have a copy area wider than 24 inches by 36 inches
Maximum Height	3 feet 6 inches
Location	No A-frame sign shall block accessibility or be placed in any public right-of-way, exit, loading zone, bicycle rack, wheelchair ramp, sidewalk ramp, in designated parking spaces, in landscape areas, traffic triangles, or sidewalks.
Duration	None
Materials	An A-frame shall be constructed of materials that are durable and weather resistant, including wood, steel, fiberglass, plastic, or aluminum. Construction of the sign shall be of professional quality. Signs may consist of a framed chalkboard, whiteboard, tack board, or material that allows changeable copy. An A-frame sign shall be constructed to be able to withstand wind and other unpredictable weather elements, including thunderstorm activity. The sign face and the sign frame shall not contain glitter, florescent materials, streamers, balloons, or reflective materials.
Other	1. No A-frame sign shall be permanently anchored or secured to any surface. 2. Signs shall be brought indoors at the close of each business day.

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C. Banners	
Applicable Zoning District/Use	Non-Residential Zoning Districts and lawfully existing Non-Residential Uses in Residential Zoning Districts
Sign permit required	Yes
Number of signs	1
Location	Except as provided for banners permitted in conjunction with temporary satellite sales events or special events that are located on unimproved property or with events that are in lawfully permitted structures other than buildings (such as tents), no banner shall be attached to, placed on, displayed from, or mounted on any object other than a building, including but not limited to, trees or other vegetation, vehicles, trailers, utility poles, freestanding signs, or stakes. Each end of a displayed banner shall be secured to the building at which the banner is displayed.
Duration	10 consecutive days
Other	1. All banners displayed on a site shall be securely installed in a manner which will not impede the visibility of the motoring or pedestrian traffic. 2. At least 28 days must elapse from the expiration of one permit prior to the issuance of another permit for the display of a banner at a site.

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D. Sign(s) associated with on-site construction projects			
Applicable Zoning District/Use	Single-Family Zoning Districts	All other zoning districts; site less than one acre	All other zoning districts; site one acre or more
Active building permit required	Yes, except as provided in B. of "Duration" herein		

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Sign Permit Required	No		
Number of Signs	3 per site	3 per site	6 per acre
Maximum Area	16 square feet for sites less than one acre; 32 square feet for sites one acre or more	16 square feet	32 square feet
Maximum Height	8 feet		
Location	Shall not be in the right-of-way		
Duration	<ol style="list-style-type: none"> 1. Each sign associated with on-site construction projects that require a building permit shall be removed upon: <ul style="list-style-type: none"> Expiration of the building permit for the on-site construction; or No later than 10 days after issuance of the certificate of occupancy for the on-site building; whichever date is earlier. 2. Each sign associated with incidental projects or work that does not require a building permit shall be removed upon the completion of the work performed or within 30 days, whichever occurs first. 		

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E. Feather Banners	
Applicable Zoning District/Use	Permitted only conjunction with an approved and active Model Home Use
Sign permit required	No
Number of signs	A model home on a single site with one model home may display 4 feather banners and 1 banner on the model home site. Corner-lot model home sites shall be allowed a total of 4 feather banners with no more than 2 per side. For model home sites with two or more model homes approved through a single development application, one model will be allowed to have a freestanding sign, but will not be permitted to have more than 1 feather banner or banner for that individual development site. The additional model homes regulated by the special exception shall be allowed to have 4 feather banners on each model home site.
Maximum Width	3 feet
Maximum Height	15 feet from ground level including support portion of the banner.
Materials	The sign face of the feather banner shall be nylon, polyester, vinyl, or canvas. Neither the sign face nor the sign frame shall contain glitter, florescent materials, metal, or reflective materials.
Duration	Life of the active Special Exception or until converted to new use. Feather banner or banner signs shall only be displayed on the approved special exception home property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Sunday. When the model home is not open, all feather banners and banners shall be removed and stored inside the model home.
Other	All banners and feather banners shall be maintained in good condition and shall not become faded, torn, or in other similar forms of poor condition.

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F. Inflatable Objects	
Applicable Zoning District/Use	All districts

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Size	2 feet or less in width, diameter, and height	More than 2 feet in width, diameter, or height
Sign Permit Required	No	Yes
Number of Signs	4	2
Maximum Height when measured from ground	30 Feet	30 Feet
Location	No less than 10 feet from right-of-way	
Duration	Not limited	Maximum 10-day duration; minimum 28 days required between permits
Other	<ol style="list-style-type: none"> 1. Inflatable objects that are 2 feet or less in width, diameter, and height and that contain no commercial message may be located or displayed on a site without obtaining a permit. 2. Inflatable objects that are greater than 2 feet in width, diameter, or height or that contain a commercial message may be located or displayed on a site provided that a permit is obtained. 3. Inflatable objects shall be erected using approved tie-down methods. 4. No inflatable object shall be displayed in a parking space necessary for the site to meet its minimum parking requirements. 5. Except for multiple business or entity sites, the display of inflatable object(s) on a site shall not exceed a period of 10 consecutive days. 6. On multiple business or entity sites, each use located on the site shall be treated as if it were a single business or entity site. 7. The area of the inflatable object(s) displayed on a site shall not be included in the calculation of the total signage on such site. 8. Inflatable objects shall not be placed on the roof of a structure. 	

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G. Signs located on properties for sale/lease			
Applicable Zoning District/Use	All Districts		
Linear Frontage	Less than 200 linear feet of street frontage	200 to 600 linear feet of street frontage	Greater than 600 linear feet of street frontage
Sign Permit Required	No		
Number of Signs	1 per parcel or per individually owned unit, plus 1 per lot or individually owned unit for golf course or waterway frontage. A maximum of 4 sign blades may be attached to the sign and support structure.	1 per parcel or per individually owned unit, for each public street abutting property, plus 1 per lot or individually owned unit for golf course or waterway frontage. A maximum of 4 sign blades may be attached to the sign and support structure.	
Maximum Area	4 square feet	16 square feet for whole property or if individually owned,	32 sq. ft. for whole property or if individually owned,

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		and in lieu of other signage, then one 4 square foot sign per unit	and in lieu of other signage, then one 4 square foot sign per unit
Maximum Height	6 feet	6 feet	6 feet
Location	Shall not be in the right-of-way		
Duration	Removed no more than 10 days after close of sale, lease, or rental		
<u>Other</u>	<u>Shall not be illuminated.</u>		

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H. Open House Signs			
Applicable Zoning District/Use	All residential zoning districts		
Type of Sign	On-Site Signs	On-Site Flag Standards	Temporary Directional Signs
Certificate of Occupancy	Yes		
Sign Permit Required	No		
Number of Signs	1	2	2
Maximum Area	4 square feet	4 square feet	4 square feet
Maximum Height	2 feet	4 feet	2 feet
Location	Shall not be in right-of-way		
Duration	Hours of Open House		
Other	Open house signs that meet the definition of feather banner are prohibited.		

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I. Election Signs		
Applicable Zoning District/Use	Residential uses in residential districts and model home sites in any district	Non-residential districts and legal, non-residential uses in residential districts
Sign Permit Required	No	
Number of Signs	1 per 10 linear feet of street frontage	1 per 20 linear feet of street frontage
Maximum Area	4 square feet	16 square feet
Maximum Height	5 feet	10 feet
Location	Shall not be in right-of-way	
Duration	30 days prior to primary or 90 days prior to general election until 10 days after election addressing issue	
Additional Requirements	None	Prior to placement, the owner of the election signs shall provide a list of locations of the signs, and written permission from each property owner or his or her authorized agent for placement of the signs

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Other	If an election sign does not conform to the conditions and regulations applicable to residential signs or non-commercial signs for the site at which the sign is located or if the one "residential sign" or "non-commercial sign" allowed as exempt (reference) is already located on the site at which the aforesaid election sign is located, then any such election sign displayed on a site outside of the aforesaid time period or the excess election signs shall no longer be deemed to be an "exempt" sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
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J. Temporary Directional Signs	
Applicable Zoning District/Use	All districts
Sign Permit Required	No
Number of signs	2
Maximum Area	4 square feet
Maximum Height	4 feet
Location	Shall not be in right-of-way
Duration	48 hours prior to event until 24 hours after event
Other	Temporary directional signs shall only be located on private property (upon the permission of the private property owner).

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K. Signs on properties containing temporary office structures		
Applicable Zoning District/Use	Residential Zoning Districts	All Non-Residential Districts
Sign Permit Required	Yes	Yes
Number of signs per site	2	2
Maximum Area	18 square feet if building within 100 feet of property line; 32 square feet if building 100 feet or more from property line	See allowed building mounted signage as provided in § 7.15.2.A of this article
Location	Attached to temporary office structure	
Duration	From legal occupancy of structure to not more than 10 days after vacancy	

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Chapter 7.4 Permanent Signs

Section 7.4.1. Permanent Signs - Residential

A. Sign Type	Regulations		Other Requirements
Residential Signs			
Single Family	Maximum Number	1	
	Area (Max Sq. Ft.)	4	
	Height	5	
	Permit Required	No	
Multi-Family 2-6 Units in RMM and RML	Maximum Number	1/Street Frontage not to exceed 2	
	Area (Max Sq. Ft.)	16/sign	
	Height	10	
	Permit Required	No	
Multi-Family Greater Than 7 Units in RMM and RML	Maximum Number	1/Street Frontage not to exceed 2	
	Area (Max Sq. Ft.)	24/sign	
	Height	10	
	Permit Required	No	
Directional Signs	Maximum Number	1	A permanent directional sign may be located or installed on private property by the property owner or within the public right-of-way by a private business on behalf of the City of Cape Coral if necessary to direct the public to a hidden or difficult to access location.
	Height/Width	54"/56"	
	Height	24" to the bottom of the sign from ground.	
	Permit Required	No	
Flags	Maximum Number	N/A	Flags that bear no commercial message. Flags bearing commercial messages shall require a permit and shall be calculated in the sign area located on the site. Flags bearing an
	Area (Max Sq. Ft.)	N/A	
	Height	N/A	
	Permit Required	No	

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			incidental sign message shall be treated in the same manner as incidental signs.
Incidental Signs			
Single Family	Maximum Number		
	Area (Max Sq. Ft.)		
	Height		
	Permit Required		
Multi-Family 2-6 Units in RMM/RML	Maximum Number	3	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6	
	Height	N/A	
	Permit Required	No	
Multi-Family Greater Than 7 Units in RMM/RML	Maximum Number	3	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6	
	Height	N/A	
	Permit Required	No	
Interior Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	No	
Handheld Signs	Maximum Number	N/A	

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	Area	N/A	Hand held signs or signs worn as part of a costume or item of clothing that do not contain a commercial message. For the purposes of this article, all signs on non-residential property shall be presumed commercial; however, the presumption shall be considered rebuttable and may be overcome if a reasonable person could logically conclude that the presumption is invalid. Nothing in this provision shall be construed to exempt persons who display such signs from other legal requirements, including, but not limited to, those relating to traffic, privacy, and trespass.
	Height	N/A	
	Permit Required	No	
Non-Commercial Signs in Traditional Public Forum/Rights of Way	Maximum Number	1	The sign must be hand-held or worn as an item of clothing; The sign must not be affixed to the ground or otherwise rendered freestanding; and The sign must not be displayed on a median of a divided roadway and must not unreasonably obstruct or interfere with the normal flow of vehicle and pedestrian traffic.
	Area	N/A	
	Height	N/A	
	Permit Required	No	

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Section 7.4.2. Permanent Signs - Non-Residential

Sign Requirements Non-Residential Zoning Districts and Lawfully Existing Non-Residential Uses in Residential Zoning Districts

Sign Type	Regulations		Other Requirements
Awning Signs	Maximum Number	N/A	
	Area (Max Sq. Ft.)	8	

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	Height	N/A	
	Permit Required	No	
Building Signs	Maximum Number	Article 7.2.5	
	Area	Article 7.2.5	
	Height	Article 7.2.5	
	Permit Required	Yes	
Development Identification Signs	Maximum Number	1 (See other requirements)	<p>Boulevard entrances. At residential subdivision or residential development entrances which contain a median strip separating the entrance and exit lanes, either one freestanding sign may be in the median strip of the entrance or two single-faced signs equal in size may be located on each side of the entrance.</p> <p>Non-boulevard entrances. At subdivision or residential development entrances which do not contain a median strip separating the entrance and exit lanes, either one double-faced sign facing perpendicular to the street or two single-faced signs equal in size and located on each side of the entrance may be erected or located.</p> <p>Location. Except when allowed in the entrance median strip, development signs shall be located on private or commonly owned property and shall be set back a minimum of 15 feet from the edge of the entrance way pavement. A development sign may incorporate or be incorporated into landscaping, or into accessory entrance structural features including, but not limited to, a fountain or wall.</p>
	Area (Max Sq. Ft.)	32 Sq. Ft.	
	Height	10 Ft.	
	Permit Required	Yes	

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			Development signs may be illuminated only by means of exterior lights which are shielded so that light does not interfere with vehicular or pedestrian traffic.
Directional Signs	Maximum Number	1	A permanent directional sign may be located or installed on private property by the property owner or within the public right-of-way by a private business on behalf of the City of Cape Coral if necessary to direct the public to a hidden or difficult to access location.
	Height/Width	54"/56"	
	Height	24" to the bottom of the sign from ground.	
	Permit Required	No	
Electronic Message Centers	Maximum Number	Article 7.2.5	See Section 7.4.3.2 Miscellaneous Signs
	Area	Article 7.2.5	
	Height	Article 7.2.5	
	Permit Required	Yes	
Fascia Signs in South Cape (SC) Zoning District	Maximum Number	N/A	In the South Cape zoning district only, projecting signs may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney.
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Flags	Maximum Number		Flags that bear no commercial message. Flags bearing commercial messages shall require a permit and shall be calculated in the sign area located on the site. Flags bearing an incidental sign message shall be treated in the same manner as incidental signs.
	Area		
	Height		
	Permit Required		
Freestanding Signs	Maximum Number	Article 7.2.5	Not incidental or residential.
	Area	Article 7.2.5	

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	Height	Article 7.2.5	
	Permit Required	Yes	
Gasoline Pricing Signs	Permit Required	Yes	See Section 7.4.3.A Miscellaneous Signs
Incidental Signs	Maximum Number	N/A	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6	
	Height	6	
	Permit Required	No	
Integral Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Interior Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	No	
Marquee Signs in South Cape (SC) only	Maximum Number	N/A	Projecting signs may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney.
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Memorial Signs	Maximum Number	N/A	
	Area	N/A	

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	Height	N/A	
	Permit Required	No	
Menu Board(s)/Pre-Sale Board(s)	Maximum Number	Menu Board 1/Drive-Through Pre-Sale Board 1/Drive Through	
	Area	32 Sq. Ft./12 Sq. ft.	
	Height	N/A	
	Permit Required	Yes	
Model Home Signs	Maximum Number	1	Both sides of sign can be used for advertising. Must be on a site with an approved special exception or conditional use for a model home.
	Area	32 Sq. Ft.	
	Height	10 Ft.	
	Permit Required	Yes	
Non-Commercial Signs	Maximum Number	1	May be freestanding or building sign.
	Area	4	
	Height	5	
	Permit Required	No	
Handheld Signs	Maximum Number	N/A	Hand held signs or signs worn as part of a costume or item of clothing that do not contain a commercial message. For the purposes of this article, all signs on non-residential property shall be presumed commercial; however, the presumption shall be considered rebuttable and may be overcome if a reasonable person could logically conclude that the presumption is invalid. Nothing in this provision shall be construed to exempt persons who display such signs from other legal requirements, including, but not limited to, those relating to traffic, privacy, and trespass.
	Area	N/A	
	Height	N/A	
	Permit Required	N/A	

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Non-Commercial Signs in Traditional Public Forum/Rights of Way	Maximum Number	1	The sign must be hand-held or worn as an item of clothing; The sign must not be affixed to the ground or otherwise rendered freestanding; and The sign must not be displayed on a median of a divided roadway and must not unreasonably obstruct or interfere with the normal flow of vehicle and pedestrian traffic.
Name Plate Signs	Maximum Number	1/Building Entrance	Must be attached to building.
	Area	2 Sq. Ft.	
	Height	N/A	
	Permit Required	No	
Suspended Signs	Maximum Number	1/Business Entrance	
	Area	4 Sq. Ft.	
	Height	8 Feet of minimum vertical clearance from any sidewalk, private drive, parking area, or public street.	
	Permit Required	No	
Window/Door Signs	Maximum Number	See Other Regulations.	On each side of a building, no more than 50% of the total glazed area of windows and doors on the first floor of that side of the building may contain a window/door sign or signs. If a window/door sign or signs cover more than 50% of the glazed area of the first-floor windows and doors on the side of the building where the window/door signs are located, the window/door sign or signs are no longer exempt. Any window/door sign or signs located above the first floor of a building shall not be
	Area	See Other Regulations.	
	Height	N/A	
	Permit Required	No	

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			deemed an exempt sign and shall require a permit.
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Section 7.4.3. Miscellaneous Signs

A. Gasoline Pricing Signs

In addition to any other signage allowed herein, automobile service stations and other commercial uses lawfully containing fuel pumps for the sale of fuel to the public shall be allowed an additional 24 square feet of signage to advertise gasoline pricing provided that the gasoline pricing sign(s) shall be incorporated into a freestanding sign or located flat on the building or canopy.

Those sites located at the intersection of two platted streets shall be permitted one additional freestanding sign to be placed on the second platted street for the sole purpose of displaying gasoline prices. The second sign shall not exceed a total of 24 square feet of which a maximum of 25% may be utilized for the business name or logo.

B. Electronic Message Center or Sign (EMC). Electronic message center or sign shall meet the following criteria:

1. The brightness or intensity of the sign shall be factory set not to exceed 5,000 nits (or 464.52 lumens per square foot) between sunset and sunrise.
2. If the electronic message sign is a text-only message displays, then the text may move along the face of the sign, but the text shall not exceed 12 inches in height.
3. Only one electronic message sign shall be allowed per site.
4. An electronic message sign shall not be installed on a non-conforming sign.
5. Minimum display time is 8 seconds.

All electronic message center or sign not meeting these criteria are prohibited under § 7.2.2 of this article.

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CHAPTER 1. GENERAL PROVISIONS

- Section 7.1.1.** Purpose and Intent
- Section 7.1.2.** Scope
- Section 7.1.3.** Compliance with Codes and Ordinances
- Section 7.1.4.** Substitution
- Section 7.1.5.** Severability
- Section 7.1.6.** Definitions

CHAPTER 2. ADMINISTRATION

- Section 7.2.1.** Prohibited Signs
- Section 7.2.2.** Signs in the Public Right of Way
- Section 7.2.3.** Activities Exempt from Permitting
- Section 7.2.4.** Requirements Applicable to All Signs
- Section 7.2.5.** Maximum Total Sign Area per site
- Section 7.2.6.** Sign Permits
- Section 7.2.7.** Non-conforming Signs
- Section 7.2.8.** Sign Deviations
- Section 7.2.9.** Maintenance of Signs

CHAPTER 3. TEMPORARY SIGNS

CHAPTER 4. PERMANENT SIGNS

- Section 7.4.1.** Permanent signs- Residential
- Section 7.4.2.** Permanent signs- Non- Residential
- Section 7.4.3.** Miscellaneous signs

CHAPTER 1. GENERAL PROVISIONS

Section 7.1.1. Purpose and Intent

It is the purpose of this Article to promote the public health, safety, and general welfare through reasonable, consistent, and non-discriminatory sign standards. The sign regulations in this Article are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the adverse secondary effects of signs. The sign regulations are especially intended to address the secondary effects that may adversely impact aesthetics and traffic and pedestrian safety. The sign regulations are designed to serve substantial governmental interests and, in some cases, compelling governmental interests, such as traffic safety and warning signs of threats to bodily injury or death. This Article is not intended to extend its regulatory regime to objects that are not traditionally considered signs for purpose of government regulation.

In order to preserve and promote the City as a desirable community in which to live, visit, work, play, and do business, a pleasing, visually attractive, and safe environment is of foremost importance. The regulation of signs within the City is a highly contributive means by which to achieve this desired end.

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47 Further it continues to be the purpose of this Article to promote optimum conditions for serving sign
48 owners' needs and respecting their rights to identification while balancing the aesthetic and safety
49 interests of the community. The regulation of signs within the City is necessary and in the public interest,
50 and these regulations have been prepared with the intent of enhancing the visual environment of the City
51 and promoting its continued well-being, and are intended more specifically to:

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- A. Aesthetics. To maintain and enhance the beauty, unique character, aesthetic environment, and quality of the City, that will attract commerce, businesses, economic development, residents, and visitors; to preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all zoning districts of the City; to regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the City and that complements the natural surroundings in recognition of the City's reliance on its natural surroundings and beautification efforts in retaining economic advantage for its community; and to assure that the benefits derived from the expenditure of public funds for the improvement and beautification of streets, sidewalks, public parks, public rights-of-way, and other public places and spaces, are protected by exercising reasonable controls over the physical characteristics and structural design of signs.
- B. Traffic and Pedestrian Safety. To maintain and improve traffic and pedestrian safety through properly located signs; to regulate signs in a manner so as to not interfere with, obstruct the vision of, or distract motorists, bicyclists, or pedestrians; to allow for traffic control devices consistent with national standards and whose purpose is to promote roadway safety and efficiency by providing for the orderly movement of road users on streets and roadways, and that notify users of regulations and provide warning and guidance necessary for the safe, uniform, and efficient operation of all elements of the traffic stream.
- C. Economic Development. To promote economic development and the value of nonresidential properties, through sensitivity to surrounding land uses and maintaining an attractive community appearance.
- D. Effective Communication. To encourage signs which are clear and legible; and to encourage the effective use of signs as a means of communication.
- E. Identification of Goods and Services. To aid the public and private sectors in identifying the location of goods and services.
- F. Compatibility with Surroundings. To allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs; to preclude signs from conflicting with the principal permitted use of the site and adjoining sites; and to minimize the possible adverse effect of signs on nearby public and private property.
- G. Reduction of Visual Clutter. To reduce visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic.

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- 92 H. Zoning District Considerations. To encourage and allow signs that are appropriate to the zoning district
93 in which they are located.
94
- 95 I. Scale, Integration, and Design. To establish sign size in relationship to the scale of the lot and building
96 on which the sign is to be placed or to which it pertains; to foster the integration of signs with
97 architectural and landscape designs; to provide flexibility and encourage variety in signs, and to relate
98 signage to the basic principles of good design; and to promote the use of signs that positively
99 contribute to the aesthetics of the community, are appropriate in scale to the surrounding buildings
100 and landscape, and advance the City’s goals of quality development.
101
- 102 J. Maintenance and Safety. Except to the extent expressly preempted by state or federal law, to ensure
103 that signs are constructed, installed, and maintained in a safe and satisfactory manner, and to protect
104 the public from unsafe signs.
105
- 106 K. Property Values. To protect property values by precluding, to the maximum extent possible, sign types
107 that create a nuisance to the occupancy or use of other properties because of their physical
108 characteristics such as their size (area), height, number, illumination, and movement; and to protect
109 property values by ensuring that the number of signs are in harmony with buildings, neighborhoods,
110 and conforming signs in the area.
111
- 112 L. Enforcement. To enable the fair and consistent enforcement of these sign regulations; and to provide
113 standards regarding the non-communicative aspects of signs, which are consistent with local, county,
114 state, and federal law.
115

Section 7.1.2. Scope

This article shall control the regulation of signs and other outdoor displays. If any part of this article conflicts with any other codes adopted by the city, the most restrictive provision shall apply.

Section 7.1.3. Compliance with Codes and Ordinances

No sign shall be erected or maintained in the city, except in accordance with the provisions of this article. All signs erected, installed, or located in the City of Cape Coral shall conform to all requirements of the National Electrical Code, as revised, the Florida Building Code, this article, and other applicable law.

Section 7.1.4. Substitution

It is not the purpose of this article to regulate or control the copy, content, or viewpoint of signs. Nor is it the intent of this article to afford greater protection to commercial speech than to non-commercial speech. Any sign, display, or device allowed under this article may contain, in lieu of any other copy, any otherwise lawful non-commercial message that complies with all other requirements of this article. The non-commercial message may occupy the entire sign area or any portion thereof and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to non-commercial or from one non-commercial message to another, as frequently as desired by the sign's owner, if the sign is not prohibited and the sign continues to comply with all requirements of this article.

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Section 7.1.5. Severability

- A. Generally. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article.
- B. Severability where less speech results. This subsection shall not be interpreted to limit the effect of Section 7.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. The City Council specifically intends that severability shall be applied to these sign regulations even if the result would be to allow less speech in the city, whether by subjecting currently exempt signs to permitting or by some other means.
- C. Severability of provisions pertaining to prohibited signs. This subsection shall not be interpreted to limit the effect of Section 7.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. The City Council specifically intends that severability shall be applied to Section 7.2.1 of this article, "Prohibited signs," so that each of the prohibited sign types listed in that section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.
- D. Severability of prohibition on off-premises signs and commercial signs. This subsection shall not be interpreted to limit the effect of Section 7.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. If any, or all, of this article or any other provision of the code is declared unconstitutional or invalid by the final and valid judgment of any court of competent jurisdiction, the City Council specifically intends that that declaration shall not affect the prohibition of off-site signs in Section 7.2.1 of this article.

Section 7.1.6. Definitions

Article 11 of this code contains definitions as they relate to this article.

Chapter 2. Administration

Section 7.2.1. Prohibited Signs

The following signs are prohibited:

- A. Abandoned signs;
- B. Animated signs, except electronic message centers, provided such signs comply with the requirements of Section 7.4.3;
- C. Back Lit Awning Signs;
- D. Bandit Signs;

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- 184 E. Blinking Signs;
185
186 F. Unless allowed under Section 7.2.2 of this article, signs on public property, rights-of-way, or attached
187 to trees or utility poles, other than by or with the permission of the owner of the public property or
188 right-of-way;
189
190 G. Signs attached to fences on improved, non-residential property; however, this prohibition shall not
191 extend to signs attached to recreational fences around activity fields, playgrounds, or playing fields
192 (such as football fields, baseball diamonds, etc.) in public parks owned and operated by one or more
193 governmental entities and where the signs:
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195 1. Are only visible from inside the park, or
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197 2. If visible from outside the park, face the inside of the park;
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199 H. Figure structured signs;
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201 I. Flashing signs;
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203 J. Intermittent;
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205 K. Moving;
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207 L. Obscene signs;
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209 M. Off-site signs;
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211 N. Parasite signs;
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213 O. Projected image signs;
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215 P. Portable signs;
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217 Q. Reflective;
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219 R. Roof signs;
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221 S. Rotating;
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223 T. Signs or sign support structures that obstruct means of egress, including any fire escape, any window,
224 any door opening, any stairway, any opening, any exit, any walkway, any utility access or Fire
225 Department connection;
226
227 U. Signs that interfere with any opening required for ventilation;
228
229 V. Signs resembling Traffic Control Device Signs;

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- 230
- 231 W. Signs with exposed raceways;
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- 233 X. Snipe Signs; and
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- 235 Y. Vehicle signs.
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Section 7.2.2. Signs in the Public Right-of-Way

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- 239 A. Signs allowed in the public right-of-way. No signs shall be erected, installed, or located in the public
- 240 right-of-way or shall project over the public right-of-way, except permanent signs of the following
- 241 type(s):
- 242
- 243 1. Public signs erected by or on behalf of a governmental body to post legal notices, identify public
- 244 property, convey public information, announce public events, and direct or regulate pedestrian
- 245 or vehicular traffic.
- 246
- 247 2. Signs that are placed within or on structures that are public service related, including bus stop
- 248 signs, bench/shelter signs, and other informational signs. These structures shall be erected by or
- 249 on behalf of a public transit or communications company or the city. These structures and the
- 250 character, size, content, nature, and design of signs on such structures shall be approved by the
- 251 city through a contract or other agreement approved by the City Council prior to the erection of
- 252 such structures or the installation of such signs. If such structures cannot be in the public right-of-
- 253 way as the result of safety factors, right-of-way constraints, or other factors or if it is more
- 254 practicable to locate such structures on a site other than public right-of-way, the structure may
- 255 be placed on private property, provided that prior written consent is obtained from the property
- 256 owner.
- 257
- 258 3. Informational signs of a public utility regarding its poles, lines, pipes, or facilities.
- 259
- 260 4. Development identification signs in conformity with 7.4.2.
- 261
- 262 5. Directional signs in conformity with 7.4.2.
- 263
- 264 6. Non-commercial signs in conformity with 7.4.2.
- 265
- 266 7. Traffic Control Device Signs installed by or on behalf of a government body.
- 267
- 268 B. Removal and forfeiture of unauthorized sign in the public right-of-way. The city shall have the right to
- 269 remove from the public right-of-way any sign which is erected, installed, or located in such public
- 270 right-of-way and which does not conform to the requirements of this article. Such signs shall be
- 271 deemed to have been forfeited to the city and the city shall have the right to dispose of such signs as
- 272 it sees fit. In addition to other remedies, the city shall have the right to recover from the owner of
- 273 such sign or the person responsible for placing the sign in the public right-of-way all costs associated
- 274 with the removal or disposal of the sign.
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Section 7.2.3. Activities Exempt from Permitting

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The following types of activities are exempt from the permitting requirements of this article:

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A. Changing the advertising copy, announcement, or message on a marquee or changeable copy sign board so designed to alter such copy; subject to any restrictions in this article, including frequency limitations;

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B. Cleaning, painting, electrical, or comparable general maintenance or repair of a sign that does not alter any regulated feature of such sign; and

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C. Changing the message or locating official public notices or traffic control signs.

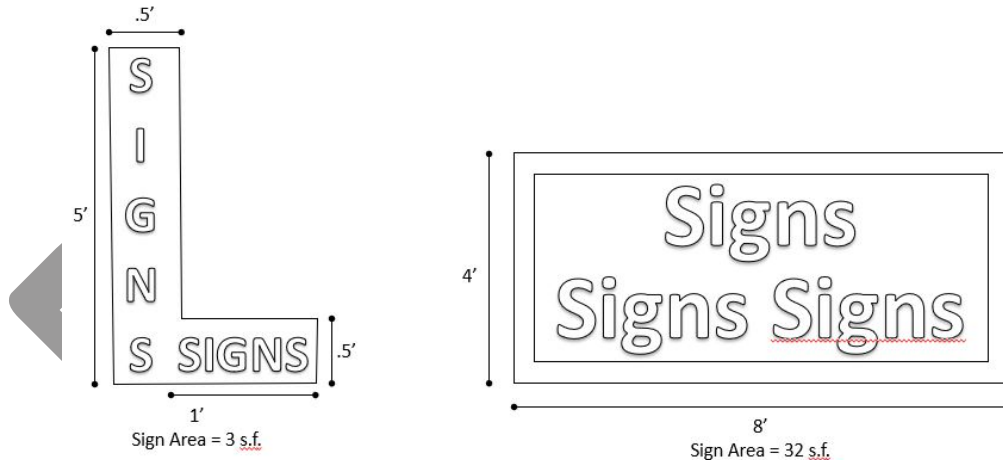
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Section 7.2.4. Requirements Applicable to All Signs

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A. Computation of sign area. The area of a sign shall be measured from the outside edges of the sign or the sign frame, whichever is greater, excluding the area of the supporting structures provided that the supporting structures are not used for advertising purposes and are of an area equal to or less than the permitted sign area. Supporting framework and bracing which are incidental to the display itself shall not be included in the computation of the area unless, by the nature of their design, they form a continuation of the sign.

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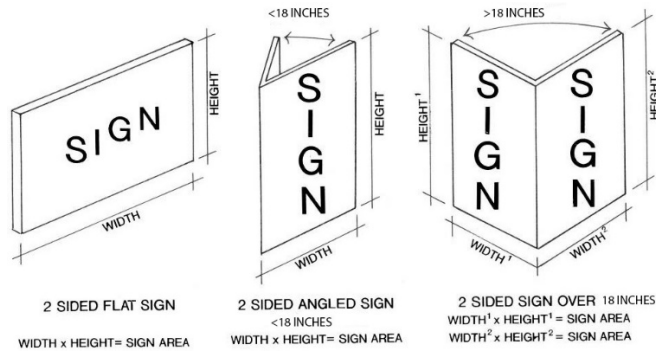


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1. The area of a multi-faced sign shall be computed on one face in the same manner as the sign area of an individual sign, provided that the faces of the sign are not separated at any point by more than 18 inches. If the faces of a multi-faced sign are separated at any point by more than 18 inches, then each face constitutes a separate sign.

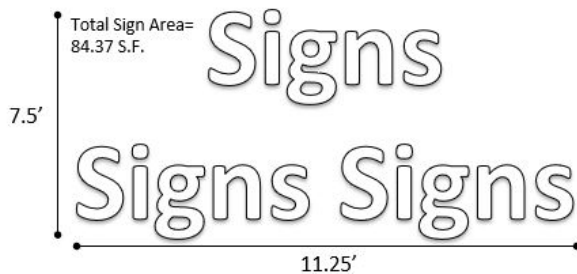
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2. Where individual characters are used without a supporting panel (channel letters), the overall dimensions from the beginning of the first character to the end of the last character in the longest line and from the top of the uppermost character to the bottom of the lowermost character shall be regarded as the extreme dimensions in calculating the overall sign area of the sign.



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- B. Computation of height. The vertical height of a freestanding sign shall be computed from the established mean grade of the development site to the highest component of the sign or supporting framework, whichever is higher. The maximum vertical height of a building mounted sign shall not exceed the roof line of the structure.
- C. Location of signs on property.
 1. Setbacks. The distance of a sign from a property line, right-of-way, or other point shall be computed by measuring a perpendicular line from the foremost part of the sign to the ground and then measuring from that point to the nearest point of the property line, right-of-way, etc.
 2. Distance between freestanding signs. A minimum distance of 25 feet shall be maintained between freestanding signs regardless of whether such signs are on one site or whether they are located on adjacent sites.
 3. Location. No sign may project beyond the property line(s) of the property on which the sign is located, except that sign(s) may be flush-mounted to the walls of buildings which are constructed with a zero setback from the property line. Except as otherwise provided herein, signs shall be located on the same site on which the advertised goods or services are available. No part of any

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331 banner, sign, flag, or flagpole shall be hung, attached, or erected in any manner as to project into
332 the right-of-way.
333

334 4. Freestanding signs are prohibited in the 6' perimeter utility easement.
335

336 D. Illumination. Signs may be illuminated by any method not prohibited by this article provided that any
337 light source shall be shielded in such a manner as to prevent direct rays of light from being cast into
338 an occupied residence, hotel or motel room, a commercial business, at any pedestrian traveling upon
339 a street or sidewalk, or any vehicle traveling upon a public street.
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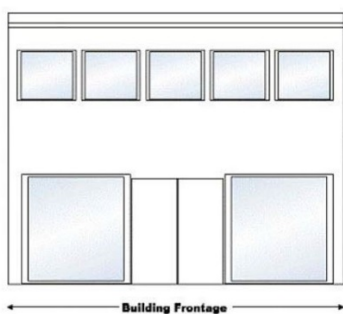
Section 7.2.5. Maximum Total Sign Area Per Site

343 A. Residential uses in residential zoning districts. Except for signs identified as permitted, no signs are
344 allowed on sites containing residential uses in residential zoning districts. Any sign on a residential site
345 in a residential zoning district shall comply with the provisions for such sign(s).
346

347 B. Non-residential uses in all zoning districts. Except as otherwise provided in this chapter, the number
348 of building signs located on property lawfully used for non-residential purposes shall not be limited
349 so long as the cumulative total sign area (in square feet) of all such signs, except exempt signs, does
350 not exceed the building sign allowance for the property. The allowable building sign area (in square
351 feet) of all signs, except exempt signs, erected, installed, or located on a site lawfully containing a non-
352 residential use in any zoning district shall be computed as follows:
353

354 1. Building mounted signs.

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356 a. If a building contains more than one floor or story, the dimension of the primary side of the
357 building shall be determined by measuring (in linear feet) the overall width of the first floor
358 or story of the building on the side that faces the front lot line and the sign allowance for each
359 business establishment or other entity occupying the building shall be shared by such business
360 establishments or other entities as determined by the property owner based on the frontage
361 of the building.
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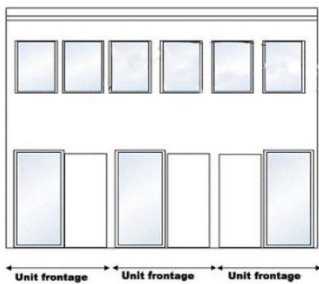
Structural Building Frontage Single Unit

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365 b. If a building contains more than one business establishment or other entity, but the exterior
366 of the building has not been subdivided into units, the sign allowance for each business
367 establishment or other entity occupying the building shall be shared by such business

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368 establishments or other entities as determined by the property owner based on the frontage
369 of the building.

370
371 c. If all or part of the exterior of a building has been subdivided into two or more fully enclosed
372 units capable of containing one or more business establishments or other entities (such as a
373 multiple unit shopping center), the front dimension of each such unit shall be considered the
374 building frontage of the unit and the sign allowance for each business establishment or other
375 entity occupying such unit shall be shared among the business establishments or other
376 entities occupying such unit in the manner prescribed by the property owner. Any remaining
377 part of the exterior of the building which has not been subdivided into fully enclosed units
378 shall be treated the same as a building which has not been subdivided into units.
379



Structural Building Frontage Multiple Unit Building

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382 d. If a single business establishment or other entity occupies more than one consecutive fully
383 enclosed unit, the building frontage of such business or other entity shall be the total linear
384 dimension of building frontage of all such units combined.

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386 e. The allowable signage to be mounted on a building shall be based on the building frontage of
387 a business or other entity as follows:
388

Linear Feet of Structural Frontage	Square Feet/Linear Feet of Structural Frontage	Maximum Area
≤100 Linear Feet	2 Square Feet	100 Square Feet
>100 Linear Feet to ≤300 Linear Feet	1 Square Foot	200 Square Feet
>300 Linear Feet	.75 Square Feet	300 Square Feet
In the event a building is located on a lot that does not abut a public street, the frontage shall be measured along the publicly dedicated parking lot or platted alley that the lot fronts		

389
390 f. In addition to the sign area otherwise allowed in this section, business establishments or other
391 entities which meet the following criteria shall be allowed additional sign area for building-
392 mounted signs as follows:

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- i. Businesses or other entities fronting on more than one platted street shall be permitted an additional sign area allowance of one-half square foot per linear foot of building frontage on such additional street up to a maximum of 50 square feet per street. Such additional sign area allowance for a second street shall be added to the building-mounted sign area allowance resulting from the building frontage calculation. If a business or other entity fronts on three or four streets, then the additional sign allowance resulting from frontage on the third or fourth streets shall be used on the building face actually abutting the third or fourth streets. For purposes of this article, when a business or other entity fronts three or four streets, the side(s) of the business establishment or other entity shall be deemed to be fronting on the second and, if applicable, the fourth streets and the rear of the business establishment or other entity shall be deemed to front on the third street.
- ii. Businesses or other entities whose side or rear building frontages abut a public alley, public parking area, or mall parking area shall be permitted an additional allowance of one-half square foot per linear foot of such side or rear building frontage up to a maximum of 50 square feet. Such additional allowance shall only be used on the side or rear of the building which actually abuts the public alley, public parking area, or mall parking area.

C. Freestanding signs.

1. Individual business or entity sites.

- a. Except as otherwise provided in Section 7.4.3 of this article, "Gasoline pricing signs," no site shall have more than two freestanding signs.
- b. The allowable freestanding sign area (in square feet), the maximum number of freestanding signs, and the maximum height of freestanding signs erected, located, or placed on lawfully existing non-residential uses in all zoning districts shall be based on the street frontage of the site.
- c. When only one freestanding sign is permitted, the sign shall provide architectural design features, including colors or materials or both consistent with those used in the design of the building to which the sign is accessory. These features shall apply to the sign frame and supporting materials, not to the sign panel or panels that provide the actual advertising area.
- d. When two freestanding signs are permitted, signs must be similar in design, color and materials.
- e. For all individual non-residential use sites, the following maximum freestanding sign(s) number, maximum freestanding sign area, and height limitations shall apply:

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Freestanding Signs	Individual businesses or entities	Individual businesses or entities in Preserve Zoning Districts	Individual businesses or entities on Pine Island Road (SR 78), Veterans Parkway, US 41, and Burnt Store Road
Sign are based on street frontage (linear feet)			
100 feet or less	30 square feet	24 square feet	36 square feet
101-200 feet	40 square feet	24 square feet	48 square feet
201-300 feet	52 square feet	24 square feet	60 square feet
301+ feet	65 square feet	24 square feet	75 square feet
Height (feet):	20	20	25
Maximum Number:			
Site with less than 500 linear feet abutting a single street	1	1	1
Site with 500 or more linear feet abutting a single street	2	1	2
1. When more than one freestanding sign is permitted on the same site, signs must be spaced a minimum of 300 feet apart.			

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2. Multiple business or entity sites.

- a. When only one freestanding sign is permitted, the sign shall provide architectural design features, including colors or materials consistent with those used in the design of the building the sign is accessory to. These features shall apply to the sign frame and supporting materials, not to the sign panel or panels that provide the actual advertising area.
- b. On sites that are approved through a Planned Unit Development which contain commercial, professional, industrial, mixed use, or agricultural uses together with residential properties as part of the same Planned Unit Development, and the residential uses front the road on which the development faces with non-residential uses located inside the development not visible from the road, the Director may allow signs that are used to direct motorists to facilitate finding the non-residential component of the development. The Director shall take into consideration factors that include:
 - (i) The location of the non-residential uses within the development;
 - (ii) The location of permitted signage for the non-residential uses within the development; and
 - (iii) Roadway conditions.

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457 c. Although the distribution of freestanding signage among the tenants or occupants of a
458 multiple business or entity site shall be the responsibility of the real property site owner, the
459 following limitations concerning maximum number, sign area, and height of freestanding
460 signs shall apply to all multiple business or entity sites containing non-residential uses:
461

Freestanding Signs	Multiple business or entity sites	Multiple business or entity sites in Preservation Zoning Districts	Multiple business or entity sites on Pine Island Road (SR 78), Veterans Parkway, US 41, and Burnt Store Road
Sign are based on street frontage (linear feet)			
100 feet or less	50 square feet	24 square feet	60 square feet
101-200 feet	64 square feet	24 square feet	75 square feet
201-300 feet	80 square feet	24 square feet	100 square feet
301+ feet	100 square feet	24 square feet	150 square feet
Height (feet):	20	20	25
Maximum Number:			
Site with less than 500 linear feet abutting a single street	1	1	1
Site with 500 or more linear feet abutting a single street	2	1	2
1. When more than one freestanding sign is permitted on the same site, signs must be spaced a minimum of 300 feet apart. 2. In the event the depth of the property is at least three times the length of the street frontage (linear feet), an additional 25% of sign area is allowed.			

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463 **Section 7.2.6. Sign Permits**
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465 A. Required. Except as otherwise required, no sign shall be located, placed, erected, constructed,
466 altered, extended, or displayed without first obtaining a sign permit and meeting all requirements of
467 the Florida Building Code. In the event a sign is located, installed, or maintained upon real property
468 without any required permits, after the expiration or lapse of a sign permit, after the closure of a
469 business, or otherwise in violation of the requirements of this article, the owner of the real property
470 shall be deemed to be responsible for the prompt removal of such sign and shall be responsible for
471 and subject to all fines or penalties which shall result from such violation.
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473 B. Procedure. The procedure for obtaining a sign permit shall in conformance with application
474 requirements in Article 3.1.
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1. Upon request by the Department, the applicant shall provide such supplementary information as may be specifically requested by the Department to determine compliance with this article.
 2. The Department shall review the application, plans, and specifications to determine whether the proposed sign conforms to all applicable requirements of this article and, based on such review, shall either approve or deny the application for the sign permit.
 - a. Sign permit applications which include a request for a deviation to this article, pursuant to Section 7.2.8 of this article, shall either be approved or denied. However, if the applicant has applied for a building permit or certificate of use for the non-residential use at the subject site or for an electrical permit for the illumination of a sign, no sign permit shall be issued by the city until after the requested building or electrical permit or certificate of use has been issued by the city.
 - b. In no event shall the issuance of a sign permit following the issuance of a building permit, but prior to the completion of the construction project, result in an increase in the sign(s) allowed under this article based on the structure as it is eventually completed. In other words, if the city issues sign permit(s) following the issuance of a building permit, but before the construction of the building or structure is completed, and one or more sign(s) are installed or erected pursuant to such sign permit, but then the building plans are modified in such a way as to reduce the number, size, etc. of the sign(s) which would be allowed under this article, then the property owner shall be required to bring such sign(s) into compliance with the provisions of this article and to obtain a valid sign permit for such sign(s).
 - C. Submission requirements. No request for a sign permit shall be considered complete until all required documents and fees are received.
 - D. Plans and specifications. Plans and specifications for any proposed sign shall be drawn to scale and shall include the following:
 1. Dimensions and elevations, including the message of the sign;
 2. Parcel frontage on all street rights-of-way for freestanding signs only;
 3. Linear dimension(s) of the subject building or unit located adjacent to all public rights-of-way such as streets, alleys, and public parking lots for freestanding signs only;
 4. Maximum height of the sign, as measured in accordance with this article;
 5. Location of the sign in relation to property lines, public rights-of-way, easements, buildings, and other signs on the property;
 6. Dimensions and anchoring of the sign's supporting members;
 7. For illuminated signs, the type, location, and direction of illumination sources;

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- 522 8. Construction and electrical specifications, enabling determination that the sign meets all
523 applicable structural and electrical requirements of the building code; and
524
- 525 9. Number, type, location, and surface area of all existing signs on the same property or building on
526 which the sign is to be located, except that in the event all or part of the exterior of a building has
527 been subdivided into two or more fully enclosed units capable of containing one or more business
528 or entity establishments, such as a multiple unit shopping center, the number, type, location, and
529 surface area of all building mounted signs on the unit for which the proposed sign is sought and
530 all freestanding signs on the property shall be included.
531
- 532 E. Deviations. If a deviation to any requirements of this article is necessary, a request for a deviation
533 shall be included with the initial application for a sign permit pursuant to Section 7.2.8 of this article.
534
- 535 F. Lapse. A sign permit shall lapse automatically if the business tax receipt for the premises lapses, is
536 revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is
537 discontinued for a period of 30 days and is not renewed within 30 days from the date a written notice
538 is sent from the city to the last permittee that the sign permit will lapse if such activity is not resumed.
539 A sign permit shall also lapse if the sign for which it is issued either is not erected or placed within 180
540 days following the issuance of the sign permit or is removed for a period of 60 days. Once a sign permit
541 has lapsed, it shall be considered void and a new application and review process shall be necessary to
542 have such a permit reissued.
543
- 544 G. Identification. All signs requiring a permit shall have the permit number permanently imprinted or
545 otherwise placed in the lower right-hand corner of the sign.
546
- 547 H. Removal. The permittee or property owner shall be responsible for the removal of a sign once the
548 sign permit has expired or lapsed, without an application for a new permit, or the purpose in
549 displaying the sign has ended.
550

Section 7.2.7. Non-Conforming Signs.

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552
- 553 A. Non-conforming sign compliance. All signs lawfully erected prior to February 1, 2019 that do not
554 comply with the requirements of this article shall be considered non-conforming signs. All non-
555 conforming signs shall be removed or brought into conformity with this article no later than February
556 1, 2029. The owners of the real property on which such non-conforming signs exist shall be
557 responsible for ensuring that such signs are removed or brought into conformity. Non-conforming
558 signs shall not be altered, replaced, or repaired if such alteration, replacement, or repair would
559 constitute more than 50% of the replacement value of the non-conforming sign. All other signs that
560 were not lawfully erected prior to February 1, 2019 that do not comply with the requirements of this
561 article shall be removed no later than December 31, 2024.
562
- 563 B. Effect of annexation on sign compliance. Any sign that was lawfully erected on property that was
564 located outside of the jurisdiction of the city at the time the sign was erected but which was annexed
565 into the city prior to February 1, 2019 and that does not comply with the requirements of this article
566 shall be considered a non-conforming sign and shall be removed or brought into conformity with this
567 article no later than February 1, 2029. Any sign that was or is lawfully erected on property that was

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568 located outside of the jurisdiction of the city at the time the sign is erected but which was annexed
569 into the city on or after February 1, 2019 and that does not comply with the requirements of this
570 article, shall be considered a non-conforming sign and shall be removed or brought into conformity
571 with this article no later than ten years from the effective date of the annexation.
572

- 573 C. Restrictions on permitting certain non-conforming signs. Sign permits will not be issued for the
574 alteration, replacement, or repair of a non-conforming sign if such alteration, replacement, or repair
575 constitutes more than 50% of the replacement value of the existing non-conforming sign. Changing
576 the information on the face of an existing non-conforming sign shall not be deemed an action
577 increasing the degree or extent of the non-conformity to constitute a violation of this article. Any
578 other alteration to an existing non-conforming sign will be required to conform to this article.
579
- 580 D. Exceptions. A sign which is erected, located, or installed prior to the adoption of this ordinance and
581 which was approved by a dimensional variance from the Board of Zoning Adjustment and Appeals,
582 Hearing Examiner, or the City Council shall retain such variance approval. A sign which is erected,
583 located, or installed prior to the adoption of this ordinance and which was approved by a deviation
584 from the Director shall retain such deviation approval. However, any sign which has been approved
585 by such a dimensional variance or deviation and is then changed to conform to this article shall forfeit
586 the sign variance or deviation.
587

588 **Section 7.2.8. Sign Deviations.**

- 589
- 590 A. Deviations. A deviation may be granted from the strict application of the regulations in this chapter
591 which apply to:
- 592
- 593 1. Allow a 25% increase in allowable sign area;
 - 594
 - 595 2. Allow a 25% increase in allowable sign height;
 - 596
 - 597 3. Allow for decrease in minimum distance between freestanding signs; or
 - 598
 - 599 4. Allow an additional freestanding sign.
 - 600
- 601 B. Requests for deviations shall be initiated by the applicant in the application for sign permit approval
602 and shall be accompanied by documentation including, but not limited to, sample detail drawings,
603 schematic architectural drawings, site plans, elevations, and perspectives which shall graphically
604 demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the
605 benefit, or at least not to the detriment, of the public interest. Deviations from the provisions of this
606 article may be approved by the Director provided that such deviation will not be contrary to the public
607 interest and in harmony with the general intent and purpose of this article and where one or both of
608 the following criteria are satisfied:
- 609
- 610 1. Conditions exist that are not the result of the applicant and which are such that a literal
611 enforcement of the regulations involved would result in unnecessary or undue hardship; or
612

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613 2. There is something unique about the building or site configuration that would cause the signage
614 permitted by this article to be ineffective in identifying a use or structure that would otherwise
615 be entitled to a sign.
616

617 C. Subject to the standards and criteria stated above, the Director shall approve only the minimum
618 deviation from the provisions of this article necessary to avoid the undue hardship or to cause the
619 signage for the site to be effective in identifying the use or structure located on the site. However, no
620 deviation shall be approved that would have the effect of allowing a type or category of sign that
621 would otherwise be prohibited by this article.
622

623 D. Any person aggrieved by the decision of the Director concerning a deviation may apply for a variance.
624

625 **Section 7.2.9. Maintenance of Signs.**
626

627 A. Maintenance Required.
628

629 It is unlawful for any owner of record, lessor, lessee, manager, or other person having lawful
630 possession or control over a building, structure, or parcel of land to fail to maintain any signs on the
631 building, structure, or parcel in compliance with this chapter. Failure to maintain a sign constitutes a
632 violation of this chapter and shall be subject to enforcement under the enforcement provisions of
633 Chapter 1.6.
634

635 All signs, if in existence prior to adoption of this chapter, shall be maintained and kept in good repair
636 and in a safe condition. Maintenance of a sign shall include, but is not limited to, periodic cleaning,
637 replacement of flickering, burned out or broken light bulbs or fixtures, repair or replacement of any
638 faded, peeled, cracked, or otherwise damaged or broken parts of a sign, and any other activity
639 necessary to restore the sign so that it continues to comply with the requirements and contents of
640 the sign permit issued for its installation, if required, and the provisions of this chapter.
641

642 B. Removal.
643

644 1. Every person maintaining a sign must, upon vacating the premises where a sign is maintained,
645 remove or cause to be removed said sign within 180 days from the date of vacating the premises.
646 When the Director determines that said sign has not been removed within said period, the
647 Director shall remedy and enforce said violation in accordance with the enforcement provisions
648 of this chapter.
649

650 2. Any vacant or unused sign support structures, angle irons, sign poles, or other remnants of old
651 signs which are currently not in use or are not proposed for immediate reuse by a sign permit
652 application for a permitted sign, shall be removed.
653

654 3. The Director shall have the authority to require the repair, maintenance, or removal of any sign
655 or sign structure which has become dilapidated or represents a hazard to the safety, health, or
656 welfare of the public, at the cost of the sign or property owner.
657

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- 658 4. Any sign posted in violation of this chapter on public property or on public rights-of-way shall be
659 subject to summary removal by the City.
660
661 5. Any person responsible for any sign posting made in violation of this chapter shall be liable to the
662 City for the costs incurred by the City in removal thereof and, in event of failure to pay, for billing
663 and collection charges, including interest and reasonable attorneys' fees.
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Chapter 7.3 Temporary Signs.

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667 A. Temporary signs, identified in this chapter as not requiring a sign permit, unless indicated below, must
668 otherwise meet all the applicable requirements of this section and this article. Any temporary sign not
669 meeting these requirements, in any way, including quantity, shall be treated as a non-exempt sign
670 subject to permitting. The area of temporary signs displayed on a site shall not be included in the
671 calculation of the total signage on such site.
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B. A-Frame Signs	
Applicable Zoning District/Use	Non-Residential Zoning Districts and lawfully existing Non-Residential Uses in Residential Zoning Districts
Sign permit required	No
Number of signs	1 per business, as identified by business tax receipt
Maximum Area	An A-frame sign shall not have a copy area wider than 24 inches by 36 inches
Maximum Height	3 feet 6 inches
Location	No A-frame sign shall block accessibility or be placed in any public right-of-way, exit, loading zone, bicycle rack, wheelchair ramp, sidewalk ramp, in designated parking spaces, in landscape areas, traffic triangles, or sidewalks.
Duration	None
Materials	An A-frame shall be constructed of materials that are durable and weather resistant, including wood, steel, fiberglass, plastic, or aluminum. Construction of the sign shall be of professional quality. Signs may consist of a framed chalkboard, whiteboard, tack board, or material that allows changeable copy. An A-frame sign shall be constructed to be able to withstand wind and other unpredictable weather elements, including thunderstorm activity. The sign face and the sign frame shall not contain glitter, florescent materials, streamers, balloons, or reflective materials.
Other	1. No A-frame sign shall be permanently anchored or secured to any surface. 2. Signs shall be brought indoors at the close of each business day.

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C. Banners	
Applicable Zoning District/Use	Non-Residential Zoning Districts and lawfully existing Non-Residential Uses in Residential Zoning Districts
Sign permit required	Yes
Number of signs	1

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Location	Except as provided for banners permitted in conjunction with temporary satellite sales events or special events that are located on unimproved property or with events that are in lawfully permitted structures other than buildings (such as tents), no banner shall be attached to, placed on, displayed from, or mounted on any object other than a building, including but not limited to, trees or other vegetation, vehicles, trailers, utility poles, freestanding signs, or stakes. Each end of a displayed banner shall be secured to the building at which the banner is displayed.
Duration	10 consecutive days
Other	1. All banners displayed on a site shall be securely installed in a manner which will not impede the visibility of the motoring or pedestrian traffic. 2. At least 28 days must elapse from the expiration of one permit prior to the issuance of another permit for the display of a banner at a site.

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D. Feather Banners	
Applicable Zoning District/Use	Permitted only conjunction with an approved and active Model Home Use
Sign permit required	No
Number of signs	A model home on a single site with one model home may display 4 feather banners and 1 banner on the model home site. Corner-lot model home sites shall be allowed a total of 4 feather banners with no more than 2 per side. For model home sites with two or more model homes approved through a single development application, one model will be allowed to have a freestanding sign, but will not be permitted to have more than 1 feather banner or banner for that individual development site. The additional model homes regulated by the special exception shall be allowed to have 4 feather banners on each model home site.
Maximum Width	3 feet
Maximum Height	15 feet from ground level including support portion of the banner.
Materials	The sign face of the feather banner shall be nylon, polyester, vinyl, or canvas. Neither the sign face nor the sign frame shall contain glitter, florescent materials, metal, or reflective materials.
Duration	Life of the active Special Exception or until converted to new use. Feather banner or banner signs shall only be displayed on the approved special exception home property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Sunday. When the model home is not open, all feather banners and banners shall be removed and stored inside the model home.
Other	All banners and feather banners shall be maintained in good condition and shall not become faded, torn, or in other similar forms of poor condition.

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E. Inflatable Objects

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Applicable Zoning District/Use	All districts	
Size	2 feet or less in width, diameter, and height	More than 2 feet in width, diameter, or height
Sign Permit Required	No	Yes
Number of Signs	4	2
Maximum Height when measured from ground	30 Feet	30 Feet
Location	No less than 10 feet from right-of-way	
Duration	Not limited	Maximum 10-day duration; minimum 28 days required between permits
Other	<ol style="list-style-type: none"> 1. Inflatable objects that are 2 feet or less in width, diameter, and height and that contain no commercial message may be located or displayed on a site without obtaining a permit. 2. Inflatable objects that are greater than 2 feet in width, diameter, or height or that contain a commercial message may be located or displayed on a site provided that a permit is obtained. 3. Inflatable objects shall be erected using approved tie-down methods. 4. No inflatable object shall be displayed in a parking space necessary for the site to meet its minimum parking requirements. 5. Except for multiple business or entity sites, the display of inflatable object(s) on a site shall not exceed a period of 10 consecutive days. 6. On multiple business or entity sites, each use located on the site shall be treated as if it were a single business or entity site. 7. The area of the inflatable object(s) displayed on a site shall not be included in the calculation of the total signage on such site. 8. Inflatable objects shall not be placed on the roof of a structure. 	

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F. All Other Temporary Signs		
Applicable Zoning District/Use	Residential Zoning Districts	All Non-Residential Districts
Sign Permit Required	No	No
Number of signs/site	3	2
Maximum Sign Area/sign	4 s.f.	16 s.f.
Maximum Sign Height for a Temporary Freestanding Sign	5 ft.	5 ft.
Maximum Sign Height for a Temporary Wall Sign	15 ft.	15 ft.

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Minimum Sign Setback from any property line	10 ft.	10 ft.
Minimum Spacing between Temporary Ground Signs	5 ft.	5 ft.
Temporary Sign Allowed on Public Right of Way	No	No
Temporary Sign Allowed on Property without Property Owners Approval	No	No
Temporary Sign Allowed in the Sight Visibility Triangle	No	No
Direct/Indirect Illumination of Surface of Temporary Sign Allowed	No	No
Duration	Event - the temporary sign shall be removed within and by no later than three days after the event is concluded.	
	Non-Event – 30 Days	

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Chapter 7.4 Permanent Signs

Section 7.4.1. Permanent Signs - Residential

A. Sign Type	Regulations		Other Requirements
Residential Signs			
Single Family	Maximum Number	1	
	Area (Max Sq. Ft.)	4	
	Height	5	
	Permit Required	No	
Multi-Family 2-6 Units in RMM and RML	Maximum Number	1/Street Frontage not to exceed 2	
	Area (Max Sq. Ft.)	16/sign	
	Height	10	
	Permit Required	No	
Multi-Family Greater Than 7 Units in RMM and RML	Maximum Number	1/Street Frontage not to exceed 2	
	Area (Max Sq. Ft.)	24/sign	
	Height	10	
	Permit Required	No	
Directional Signs	Maximum Number	1	A permanent directional sign may be located or installed on private property by the property owner or within the public right-of-way by a private business on behalf of the City of Cape Coral if necessary to direct the public to a hidden or difficult to access location.
	Height/Width	54"/56"	
	Height	24" to the bottom of the sign from ground.	
	Permit Required	No	
Flags	Maximum Number	N/A	Flags that bear no commercial message. Flags bearing commercial messages shall require a permit and shall be calculated in the sign area located on the site. Flags bearing an
	Area (Max Sq. Ft.)	N/A	
	Height	N/A	
	Permit Required	No	

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			incidental sign message shall be treated in the same manner as incidental signs.
Incidental Signs			
Single Family	Maximum Number		
	Area (Max Sq. Ft.)		
	Height		
	Permit Required		
Multi-Family 2-6 Units in RMM/RML	Maximum Number	3	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6	
	Height	N/A	
	Permit Required	No	
Multi-Family Greater Than 7 Units in RMM/RML	Maximum Number	3	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6	
	Height	N/A	
	Permit Required	No	
Interior Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	No	
Handheld Signs	Maximum Number	N/A	

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	Area	N/A	Hand held signs or signs worn as part of a costume or item of clothing that do not contain a commercial message. For the purposes of this article, all signs on non-residential property shall be presumed commercial; however, the presumption shall be considered rebuttable and may be overcome if a reasonable person could logically conclude that the presumption is invalid. Nothing in this provision shall be construed to exempt persons who display such signs from other legal requirements, including, but not limited to, those relating to traffic, privacy, and trespass.
	Height	N/A	
	Permit Required	No	
Non-Commercial Signs in Traditional Public Forum/Rights of Way	Maximum Number	1	The sign must be hand-held or worn as an item of clothing; The sign must not be affixed to the ground or otherwise rendered freestanding; and The sign must not be displayed on a median of a divided roadway and must not unreasonably obstruct or interfere with the normal flow of vehicle and pedestrian traffic.
	Area	N/A	
	Height	N/A	
	Permit Required	No	

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Section 7.4.2. Permanent Signs - Non-Residential

Sign Requirements Non-Residential Zoning Districts and Lawfully Existing Non-Residential Uses in Residential Zoning Districts

Sign Type	Regulations	Other Requirements
Awning Signs	Maximum Number	N/A
	Area (Max Sq. Ft.)	8

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	Height	N/A	
	Permit Required	No	
Building Signs	Maximum Number	Article 7.2.5	
	Area	Article 7.2.5	
	Height	Article 7.2.5	
	Permit Required	Yes	
Development Identification Signs	Maximum Number	1 (See other requirements)	<p>Boulevard entrances. At residential subdivision or residential development entrances which contain a median strip separating the entrance and exit lanes, either one freestanding sign may be in the median strip of the entrance or two single-faced signs equal in size may be located on each side of the entrance.</p> <p>Non-boulevard entrances. At subdivision or residential development entrances which do not contain a median strip separating the entrance and exit lanes, either one double-faced sign facing perpendicular to the street or two single-faced signs equal in size and located on each side of the entrance may be erected or located.</p> <p>Location. Except when allowed in the entrance median strip, development signs shall be located on private or commonly owned property and shall be set back a minimum of 15 feet from the edge of the entrance way pavement. A development sign may incorporate or be incorporated into landscaping, or into accessory entrance structural features including, but not limited to, a fountain or wall.</p>
	Area (Max Sq. Ft.)	32 Sq. Ft.	
	Height	10 Ft.	
	Permit Required	Yes	

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			Development signs may be illuminated only by means of exterior lights which are shielded so that light does not interfere with vehicular or pedestrian traffic.
Directional Signs	Maximum Number	1	A permanent directional sign may be located or installed on private property by the property owner or within the public right-of-way by a private business on behalf of the City of Cape Coral if necessary to direct the public to a hidden or difficult to access location.
	Height/Width	54"/56"	
	Height	24" to the bottom of the sign from ground.	
	Permit Required	No	
Electronic Message Centers	Maximum Number	Article 7.2.5	See Section 7.4.3.2 Miscellaneous Signs
	Area	Article 7.2.5	
	Height	Article 7.2.5	
	Permit Required	Yes	
Fascia Signs in South Cape (SC) Zoning District	Maximum Number	N/A	In the South Cape zoning district only, projecting signs may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney.
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Flags	Maximum Number		Flags that bear no commercial message. Flags bearing commercial messages shall require a permit and shall be calculated in the sign area located on the site. Flags bearing an incidental sign message shall be treated in the same manner as incidental signs.
	Area		
	Height		
	Permit Required		
Freestanding Signs	Maximum Number	Article 7.2.5	Not incidental or residential.
	Area	Article 7.2.5	

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	Height	Article 7.2.5	
	Permit Required	Yes	
Gasoline Pricing Signs	Permit Required	Yes	See Section 7.4.3.A Miscellaneous Signs
Incidental Signs	Maximum Number	N/A	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6	
	Height	6	
	Permit Required	No	
Integral Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Interior Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	No	
Marquee Signs in South Cape (SC) only	Maximum Number	N/A	Projecting signs may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development. The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney.
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Memorial Signs	Maximum Number	N/A	
	Area	N/A	

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	Height	N/A	
	Permit Required	No	
Menu Board(s)/Pre-Sale Board(s)	Maximum Number	Menu Board 1/Drive-Through Pre-Sale Board 1/Drive Through	
	Area	32 Sq. Ft./12 Sq. ft.	
	Height	N/A	
	Permit Required	Yes	
Model Home Signs	Maximum Number	1	Both sides of sign can be used for advertising. Must be on a site with an approved special exception or conditional use for a model home.
	Area	32 Sq. Ft.	
	Height	10 Ft.	
	Permit Required	Yes	
Non-Commercial Signs	Maximum Number	1	May be freestanding or building sign.
	Area	4	
	Height	5	
	Permit Required	No	
Handheld Signs	Maximum Number	N/A	Hand held signs or signs worn as part of a costume or item of clothing that do not contain a commercial message. For the purposes of this article, all signs on non-residential property shall be presumed commercial; however, the presumption shall be considered rebuttable and may be overcome if a reasonable person could logically conclude that the presumption is invalid. Nothing in this provision shall be construed to exempt persons who display such signs from other legal requirements, including, but not limited to, those relating to traffic, privacy, and trespass.
	Area	N/A	
	Height	N/A	
	Permit Required	N/A	

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Non-Commercial Signs in Traditional Public Forum/Rights of Way	Maximum Number	1	The sign must be hand-held or worn as an item of clothing; The sign must not be affixed to the ground or otherwise rendered freestanding; and The sign must not be displayed on a median of a divided roadway and must not unreasonably obstruct or interfere with the normal flow of vehicle and pedestrian traffic.
Name Plate Signs	Maximum Number	1/Building Entrance	Must be attached to building.
	Area	2 Sq. Ft.	
	Height	N/A	
	Permit Required	No	
Suspended Signs	Maximum Number	1/Business Entrance	
	Area	4 Sq. Ft.	
	Height	8 Feet of minimum vertical clearance from any sidewalk, private drive, parking area, or public street.	
	Permit Required	No	
Window/Door Signs	Maximum Number	See Other Regulations.	On each side of a building, no more than 50% of the total glazed area of windows and doors on the first floor of that side of the building may contain a window/door sign or signs. If a window/door sign or signs cover more than 50% of the glazed area of the first-floor windows and doors on the side of the building where the window/door signs are located, the window/door sign or signs are no longer exempt. Any window/door sign or signs located above the first floor of a building shall not be
	Area	See Other Regulations.	
	Height	N/A	
	Permit Required	No	

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS

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			deemed an exempt sign and shall require a permit.
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**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 7 – SIGN REGULATIONS**

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Section 7.4.3. Miscellaneous Signs

A. Gasoline Pricing Signs

In addition to any other signs allowed herein, automobile service stations and other commercial uses lawfully containing fuel pumps for the sale of fuel to the public shall be allowed an additional 24 square feet of signs to advertise gasoline pricing provided that the gasoline pricing sign(s) shall be incorporated into a freestanding sign or located flat on the building or canopy.

Those sites located at the intersection of two platted streets shall be permitted one additional freestanding sign to be placed on the second platted street for the sole purpose of displaying gasoline prices. The second sign shall not exceed a total of 24 square feet of which a maximum of 25% may be utilized for the business name or logo.

B. Electronic Message Center or Sign (EMC). Electronic message center or sign shall meet the following criteria:

1. EMC's shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot-candle meter at a pre-set distance. The pre-set distances to measure the foot-candles are calculated using the following formula.

Measurement Distance = The square root of the sign area x 100.

The measurement distance may be rounded to the nearest whole number.

2. If the electronic message center is a text-only message displays, then the text may move along the face of the sign, but the text shall not exceed 12 inches in height.
3. Only one electronic message center shall be allowed per site.
4. An electronic message sign center shall not be installed on or added to a non-conforming sign.
5. Minimum display time is 8 seconds.
6. The use of video display, flashing, or blinking is prohibited for any EMC.
7. EMC's shall include photo-sensors to provide automatic intensity adjustment based on ambient lighting conditions.

All electronic message center or sign not meeting these criteria are prohibited under § 7.2.2 of this article.

**City of Cape Coral, Florida
Land Development Code
Article 8 – Nonconformities and Lawfully Existing Uses**

CHAPTER 1. GENERAL APPLICABILITY

- Section 8.1.1.** Purpose
- Section 8.1.2.** Definitions

CHAPTER 2. NONCONFORMING LOTS OF RECORD

- Section 8.2.1.** General
- Section 8.2.2.** Residential development on nonconforming lots of record

CHAPTER 3. NONCONFORMING STRUCTURES

- Section 8.3.1.** Continuation of nonconforming structures
- Section 8.3.2.** Destruction of nonconforming structures
- Section 8.3.3.** Alterations to nonconforming structures

CHAPTER 4. NONCONFORMING SIGNS

- Section 8.4.1.** Requirements for nonconforming signs

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- Section 8.5.1.** Continuation of nonconforming uses
- Section 8.5.2.** Extension or expansion of nonconforming use
- Section 8.5.3.** Discontinuance of nonconforming use
- Section 8.5.4.** Permitted improvements of nonconforming uses

CHAPTER 6. NONCONFORMITIES RESULTING FROM COMPREHENSIVE PLAN CHANGES

- Section 8.6.1.** Nonconformities created by comprehensive plan amendments

CHAPTER 7. EMINENT DOMAIN

- Section 8.7.1.** Nonconformities created by Eminent Domain

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City of Cape Coral, Florida
Land Development Code
Article 8 – Nonconformities and Lawfully Existing Uses

47 **Section 8.1.2. Definitions.**

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49 The terms “Nonconforming,” “Nonconforming, Legally,” “Nonconforming Lots of Record,”
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52 of this Article.
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59 lots, with two adjoining lots combined as a 10,000-square foot “Parcel” to construct a single-family
60 residence. A 10,000-square foot parcel is the minimum lot size required for subdivision or development
61 of a single-family residence or a two-family dwelling (LDC Article 4. Section 4.3 Zoning District
62 Development Standards). Platted lots with less than 5,000 square feet and parcels less than 10,000 square
63 feet are defined as nonconforming lots of record or parcels, respectively.
64

65 **Section 8.2.2 Residential development on nonconforming lots of record.**

66
67 Residential development on nonconforming lots of record may be permitted subject to the following
68 requirements:
69

- 70 A. Development of single-family residences under this provision is limited to the R-1 and RML zoning
71 districts.
72
73 B. Development of single-family residences defined as “Micro cottages” may be permitted on lots of
74 record in the RML zoning district provided such lots are 5,000 square feet or more in area.
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76 C. Development of two-family residences under this provision is limited to the RML zoning district.
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78 D. Development of single-family or two-family residences is permitted on nonconforming lots of record
79 and parcels less than 10,000 square feet in area, without a variance, provided that:
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81 1. Such lots or parcels are larger than 7,500 square feet in area; and
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83 2. The proposed development meets all requirements of this Code for setbacks, maximum building
84 height, and off street parking.
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86 E. The nonconforming lots of record or parcels less than 10,000 square feet in area have not been
87 subdivided or their boundaries altered through the “lot split and combine” process.
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89 **Chapter 3. NONCONFORMING STRUCTURES**

90
91 **Section 8.3.1. Continuation of nonconforming structures.**

92

City of Cape Coral, Florida
Land Development Code
Article 8 – Nonconformities and Lawfully Existing Uses

93 Except as may be provided for elsewhere in these regulations, a non-conforming structure may be
94 continued subject to the standards and conditions of this Chapter.
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96 **Section 8.3.2. Destruction of nonconforming structures.**

97 A. Except for residential structures as identified in subsection B, below, a nonconforming structure that
98 is damaged or destroyed to an extent exceeding 50 percent of the fair market value of the structure
99 and improvements at the time of its destruction, shall not be reconstructed except in conformity with
100 these regulations.

101
102 B. Nonconforming residential structures (including accessory structures) in residential zoning districts
103 may be reconstructed if damaged or destroyed to any extent, (less than 50%) if such reconstruction
104 does not increase the extent of the nonconformity(ies) existing prior to destruction and the footprint
105 of the structure is not enlarged or changed.
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107 **Section 8.3.3. Alterations to nonconforming structures.**

108
109 A structure that is nonconforming in any way, shall not be altered or enlarged in a way that increases the
110 extent of any nonconformity. Normal maintenance and repair is permitted. Alterations and additions
111 which do not increase the nonconformity may be permitted.
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113 **Chapter 4. NONCONFORMING SIGNS**

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115 **Section 8.4.1. Requirements for nonconforming signs.**

116
117 All signs with approved sign permits but which are not in conformance with the sign requirements of
118 Article 7, may continue as nonconforming signs, subject to the standards and conditions of Article 7.
119

120 **Chapter 5. NONCONFORMING USES**

121
122 **Section 8.5.1. Continuation of nonconforming uses.**

123
124 Except as may be provided for elsewhere in these regulations, a non-conforming use may be continued
125 subject to the standards and conditions of this Chapter.
126

127 **Section 8.5.2. Extension or expansion of nonconforming use.**

128
129 A nonconforming use shall not be enlarged or expanded, except for nonconformities created by
130 amendments to the comprehensive plan, as described in Chapter 6 of this Article.
131

132 **Section 8.5.3. - Discontinuance of nonconforming use.**

133
134 Whenever a nonconforming use of property has been discontinued for a period of one year or more, such
135 non-conforming use shall not thereafter be re-established, and the future use of the property shall be in
136 conformity with the provisions of these regulations.
137

138

City of Cape Coral, Florida
Land Development Code
Article 8 – Nonconformities and Lawfully Existing Uses

139 **Section 8.5.4. Permitted improvements of nonconforming uses.**

140

141 Renovations, repairs, or changes to nonconforming uses may be permitted, subject to the following
142 requirements:

143

144 A. The nonconforming use is in a nonresidential zoning district;

145

146 B. The total cost of the improvements is less than 50 percent of the fair market value of the structure
147 and improvements; and

148

149 C. The nonconforming use and associated site shall be brought into compliance with the following
150 provisions of Article 5, Development Standards, to the maximum extent practicable, as determined
151 by the Community Development Director:

152

153 1. Landscaping;

154

155 2. Sanitation;

156

157 3. Signs;

158

159 4. Lighting;

160

161 5. Stormwater;

162

163 6. Screening;

164

165 7. Noise Attenuation; and

166

167 8. Parking.

168

169 **Chapter 6. NONCONFORMITIES RESULTING FROM COMPREHENSIVE PLAN CHANGES.**

170

171 **Section 8.6.1. Nonconformities created by comprehensive plan amendments.**

172

173 A. When an existing single-family or duplex dwelling becomes non-conforming as the result of an
174 amendment to the Comprehensive Plan, including future land use map amendments, which
175 amendment was not the result of an application or other action by the property owner, the principal
176 single-family or duplex dwelling, as well as accessory structures, such as detached garages, sheds, and
177 gazebos may be repaired, altered, enlarged, or replaced to the same extent as if the amendment to
178 the Comprehensive Plan had not occurred for as long as the property owner who owned the property
179 at the time the amendment was adopted continues to own the property on which the dwelling is
180 located.

181

182 B. For the purposes of this exception, a single-family or duplex dwelling shall be deemed to be "existing"
183 if, prior to the effective date of the amendment referred to above, the dwelling was either constructed
184 or an active application for a building permit to construct the dwelling was pending with or issued by

City of Cape Coral, Florida
Land Development Code
Article 8 – Nonconformities and Lawfully Existing Uses

185 the city. This exception applies only when the effect of a Comprehensive Plan amendment would
186 render the principal single-family or duplex dwelling structure becoming non-conforming as the result
187 of an amendment, and does not apply when the effect of an amendment would render accessory
188 structures including sheds and gazebos, non-conforming while the principal dwelling remains
189 conforming. This exception does not apply either to conjoined residential dwellings or to multi-family
190 residential dwellings, regardless of number.

- 191
- 192 C. In the event the property owner who owned the real property containing the single- family or duplex
193 dwelling use at the time the Comprehensive Plan amendment was adopted conveys or otherwise
194 transfers ownership of the real property, subsequent to the adoption of the amendment, to another
195 person or entity, then this exception shall terminate and the dwelling shall be subject to the
196 limitations identified by Chapters 4 and 5 of this Article, that apply to non-conforming structures
197 generally and, prior to the conveyance or other transfer of property ownership, the property owner
198 shall notify in writing the person or entity to whom ownership is being transferred of the change in
199 the status of the property. The failure of a property owner to provide notice as required herein of the
200 change in the status of the property shall not affect the change in the status of the property.

201

202 **Chapter 7. EMINENT DOMAIN.**

203

204 **Section 8.7.1. Nonconformities created by eminent domain.**

205

206 Any structure, use, or lot made nonconforming as a direct result of eminent domain proceedings instituted
207 by the City of Cape Coral or other condemning authority, or through a voluntary conveyance by such lot
208 owner in lieu of formal eminent domain proceedings, which lot or parcel, except for such eminent domain
209 or voluntary conveyance, would be an otherwise conforming lot or parcel, shall be deemed to be a
210 conforming lot or parcel for all purposes under the City of Cape Coral Land Development Code, without
211 the necessity for a variance from any land development ordinance. This subsection shall not apply to any
212 lot or parcel which is reduced in size by more than 25 percent by such action.

**City of Cape Coral, Florida
Land Development Code
Article 8 – Nonconformities and Lawfully Existing Uses**

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City of Cape Coral, Florida
Land Development Code
Article 8 – Nonconformities and Lawfully Existing Uses

47 **Section 8.1.2. Definitions.**

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62 Development Standards). Platted lots with less than 5,000 square feet and parcels less than 10,000 square
63 feet are defined as nonconforming lots of record or parcels, respectively.
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65 **Section 8.2.2 Residential development on nonconforming lots of record.**

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67 Residential development on nonconforming lots of record may be permitted subject to the following
68 requirements:
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71 districts.
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74 record in the RML zoning district provided such lots are 5,000 square feet or more in area.
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83 2. The proposed development meets all requirements of this Code for setbacks, maximum building
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87 subdivided or their boundaries altered through the “lot split and combine” process.
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90
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City of Cape Coral, Florida
Land Development Code
Article 8 – Nonconformities and Lawfully Existing Uses

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102 B. Nonconforming residential structures (including accessory structures) in residential zoning districts
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City of Cape Coral, Florida
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Article 8 – Nonconformities and Lawfully Existing Uses

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149 C. The nonconforming use and associated site shall be brought into compliance with the following
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151 by the Community Development Director:

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153 1. Landscaping;

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169 **Chapter 6. NONCONFORMITIES RESULTING FROM COMPREHENSIVE PLAN CHANGES.**

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173 A. When an existing single-family or duplex dwelling becomes non-conforming as the result of an
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175 amendment was not the result of an application or other action by the property owner, the principal
176 single-family or duplex dwelling, as well as accessory structures, such as detached garages, sheds, and
177 gazebos may be repaired, altered, enlarged, or replaced to the same extent as if the amendment to
178 the Comprehensive Plan had not occurred for as long as the property owner who owned the property
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202 **Chapter 7. EMINENT DOMAIN.**

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204 **Section 8.7.1. Nonconformities created by eminent domain.**

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Land Development Code
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89 **Chapter 3. NONCONFORMING STRUCTURES**

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City of Cape Coral, Florida
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Article 8 – Nonconformities and Lawfully Existing Uses

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112 which do not increase the nonconformity may be permitted.
113

114 **Chapter 4. NONCONFORMING SIGNS**
115

116 **Section 8.4.1. Requirements for nonconforming signs.**
117

118 All signs with approved sign permits but which are not in conformance with the sign requirements of
119 Article 7, may continue as nonconforming signs, subject to the standards and conditions of Article 7.
120

121 **Chapter 5. NONCONFORMING USES**
122

123 **Section 8.5.1. Continuation of nonconforming uses.**
124

125 Except as may be provided for elsewhere in these regulations, a non-conforming use may be continued
126 subject to the standards and conditions of this Chapter.
127

128 **Section 8.5.2. Extension or expansion of nonconforming use.**
129

130 A nonconforming use shall not be enlarged or expanded, except for nonconformities created by
131 amendments to the comprehensive plan, as described in Chapter 6 of this Article.
132

133 **Section 8.5.3. - Discontinuance of nonconforming use.**
134

135 Whenever a nonconforming use of property has been discontinued for a period of one year or more, such
136 non-conforming use shall not thereafter be re-established, and the future use of the property shall be in
137 conformity with the provisions of these regulations.
138

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Section 8.5.4. Permitted improvements of nonconforming uses.

Renovations, repairs, or changes to nonconforming uses may be permitted, subject to the following requirements:

- A. The nonconforming use is in a nonresidential zoning district;
- B. The total cost of the improvements is less than 50 percent of the fair market value of the structure and improvements; and
- C. The nonconforming use and associated site shall be brought into compliance with the following provisions of Article 5, Development Standards, to the maximum extent practicable, as determined by the Community Development Director:
 - 1. Landscaping;
 - 2. Sanitation;
 - 3. Signs;
 - 4. Lighting;
 - 5. Stormwater;
 - 6. Screening;
 - 7. Noise Attenuation; and
 - 8. Parking.

Chapter 6. NONCONFORMITIES RESULTING FROM COMPREHENSIVE PLAN CHANGES.

Section 8.6.1. Nonconformities created by comprehensive plan amendments.

- A. When an existing single-family or duplex dwelling becomes non-conforming as the result of an amendment to the Comprehensive Plan, including future land use map amendments, which amendment was not the result of an application or other action by the property owner, the principal single-family or duplex dwelling, as well as accessory structures, such as detached garages, sheds, and gazebos may be repaired, altered, enlarged, or replaced to the same extent as if the amendment to the Comprehensive Plan had not occurred for as long as the property owner who owned the property at the time the amendment was adopted continues to own the property on which the dwelling is located.
- B. For the purposes of this exception, a single-family or duplex dwelling shall be deemed to be "existing" if, prior to the effective date of the amendment referred to above, the dwelling was either constructed

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185 or an active application for a building permit to construct the dwelling was pending with or issued by
186 the city. This exception applies only when the effect of a Comprehensive Plan amendment would
187 render the principal single-family or duplex dwelling structure becoming non-conforming as the result
188 of an amendment, and does not apply when the effect of an amendment would render accessory
189 structures including sheds and gazebos, non-conforming while the principal dwelling remains
190 conforming. This exception does not apply either to conjoined residential dwellings or to multi-family
191 residential dwellings, regardless of number.

- 192
193 C. In the event the property owner who owned the real property containing the single- family or duplex
194 dwelling use at the time the Comprehensive Plan amendment was adopted conveys or otherwise
195 transfers ownership of the real property, subsequent to the adoption of the amendment, to another
196 person or entity, then this exception shall terminate and the dwelling shall be subject to the
197 limitations identified by Chapters 4 and 5 of this Article, that apply to non-conforming structures
198 generally and, prior to the conveyance or other transfer of property ownership, the property owner
199 shall notify in writing the person or entity to whom ownership is being transferred of the change in
200 the status of the property. The failure of a property owner to provide notice as required herein of the
201 change in the status of the property shall not affect the change in the status of the property.

202
203 **Chapter 7. EMINENT DOMAIN.**

204
205 **Section 8.7.1. Nonconformities created by eminent domain.**

206
207 Any structure, use, or lot made nonconforming as a direct result of eminent domain proceedings instituted
208 by the City of Cape Coral or other condemning authority, or through a voluntary conveyance by such lot
209 owner in lieu of formal eminent domain proceedings, which lot or parcel, except for such eminent domain
210 or voluntary conveyance, would be an otherwise conforming lot or parcel, shall be deemed to be a
211 conforming lot or parcel for all purposes under the City of Cape Coral Land Development Code, without
212 the necessity for a variance from any land development ordinance. This subsection shall not apply to any
213 lot or parcel which is reduced in size by more than 25 percent by such action.

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- Section 9.1.3.** Purpose and Intent
- Section 9.1.4.** Coordination with the Florida Building Code
- Section 9.1.5.** Warning
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48

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53 floor inspection

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55 inspection

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57

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59

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68

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70

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74

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76

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78 Florida Building Code

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85 **Section 9.8.8.** Limitations on sites in regulatory floodways

86 **Section 9.8.9.** Limitations on placement of fill

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90 **Section 9.8.13.** Tanks

91 **Section 9.8.14.** Other Development

92

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93 **CHAPTER 1: ADMINISTRATION**

94

95 **Section 9.1.1. Title.**

96

97 These regulations shall be known as the Floodplain Management Ordinance of the City of Cape Coral.

98

99 **Section 9.1.2. Scope.**

100

101 The provisions of this Article shall apply to all development that is wholly within or partially within any
102 flood hazard area, including the subdivision of land; filling, grading, other site improvements, and utility
103 installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair,
104 relocation, or demolition of buildings, structures, and facilities that are exempt from the Florida Building
105 Code; placement, installation, or replacement of manufactured homes and manufactured buildings;
106 installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools;
107 and any other action or activity defined as development.

108

109 **Section 9.1.3. Purpose and Intent.**

110

111 The purposes of this Article and the flood load and flood resistant construction requirements of the
112 Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and
113 general welfare and to minimize public and private losses due to flooding through regulation of
114 development in flood hazard areas to:

115

116 A. Minimize unnecessary disruption of commerce, access, and public service during times of flooding;

117

118 B. Require the use of appropriate construction practices in order to prevent or minimize future flood
119 damage;

120

121 C. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of
122 equipment or materials, and other development which may increase flood damage or erosion
123 potential;

124

125 D. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact
126 of development on the natural and beneficial functions of the floodplain;

127

128 E. Minimize damage to public and private facilities and utilities;

129

130 F. Help maintain a stable tax base by providing for the sound use and development of flood hazard
131 areas;

132

133 G. Minimize the need for future expenditure of public funds for flood control projects and response to
134 and recovery from flood events; and

135

136 H. Meet the requirements of the National Flood Insurance Program for community participation as set
137 forth in the Title 44 Code of Federal Regulations, Section 59.22.

138

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139 **Section 9.1.4. Coordination with the Florida Building Code.**

140
141 This Article is intended to be administered and enforced in conjunction with the Florida Building Code.
142 Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building
143 Code.
144

145 **Section 9.1.5. Warning.**

146
147 The degree of flood protection required by this Article and the Florida Building Code is considered the
148 minimum reasonable for regulatory purposes and is based on scientific and engineering considerations.
149 Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This
150 Article does not imply that land outside of mapped special flood hazard areas or that uses permitted
151 within such flood hazard areas will be free from flooding or flood damage. The flood hazard areas and
152 base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps
153 and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the
154 Federal Emergency Management Agency, requiring this city to revise these regulations to remain eligible
155 for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or
156 future use is implied or expressed by compliance with this Article.
157

158 **Section 9.1.6. Disclaimer of liability.**

159
160 This Article shall not create liability on the part of the City of Cape Coral or by any officer or employee
161 thereof for any flood damage that results from reliance on this Article or any administrative decision
162 lawfully made thereunder.
163

164 **Section 9.1.7. Applicability.**

- 165
166 A. Where there is a conflict between a general requirement and a specific requirement, the specific
167 requirement shall be applicable.
168
169 B. This Article shall apply to all development in flood hazard areas within the City of Cape Coral, as
170 established in § 9.1.8. of this Article.
171

172 **Section 9.1.8. Basis for establishing flood hazard areas.**

173
174 The Flood Insurance Study for Lee County, FL and Incorporated Areas dated August 28, 2008, the
175 accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions are
176 adopted by reference as a part of this Article and shall serve as the minimum basis for establishing flood
177 hazard areas. Studies and maps that establish flood hazard areas are on file at the City Clerk's office, City
178 of Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.
179

180 **Section 9.1.9. Submission of additional data to establish flood hazard areas.**

181
182 To establish flood hazard areas and base flood elevations pursuant to § 9.1.8 of this Article, the
183 Floodplain Administrator may require submission of additional data. Additional data may be required
184 where field surveyed topography prepared by a Florida licensed professional surveyor or digital

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185 topography accepted by the city indicates that ground elevations:

186

187 A. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood
188 hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the
189 requirements of this Article and, as applicable, the requirements of the Florida Building Code: or

190

191 B. Are above the closest applicable base flood elevation, the area shall be regulated as special flood
192 hazard area unless the applicant obtains a Letter of Map Change that removes the area from the
193 special flood hazard area.

194

195 **Section 9.1.10. Other laws.**

196

197 The provisions of this Article shall not be deemed to nullify any provisions of local state or federal law.

198

199 **Section 9.1.11. Abrogation and greater restrictions.**

200

201 This Article supersedes any regulation in effect for management of development in flood hazard areas.
202 However, it is not intended to repeal or abrogate any existing regulations, including land development
203 regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In
204 the event of a conflict between this Article and any other regulation, the more restrictive shall govern.
205 This Article shall not impair any deed restriction, covenant, or easement but any land that is subject to
206 such interests shall also be governed by this Article.

207

208 **Section 9.1.12. Interpretation.**

209

210 In the interpretation and application of this Article, all provisions shall be:

211

212 A. Considered as minimum requirements;

213

214 B. Liberally construed in favor of the governing body; and

215

216 C. Deemed neither to limit nor repeal any other powers granted under state statutes.

217

218 **CHAPTER 2. DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR.**

219

220 **Section 9.2.1. Designation.**

221

222 The Director of the Department of Community Development is designated as the Floodplain
223 Administrator. The Floodplain Administrator may delegate performance of certain duties to other
224 employees.

225

226 **Section 9.2.2. General.**

227

228 The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this
229 Article. The Floodplain Administrator shall have the authority to render interpretations of this Article
230 consistent with the intent and purpose of this Article and may establish policies and procedures in order

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231 to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have
232 the effect of waiving requirements specifically provided in this Article without the granting of a variance
233 pursuant to § 9.6.1. of this Article.
234

235 **Section 9.2.3. Applications and permits.**
236

237 The Floodplain Administrator, in coordination with other pertinent offices of the city, shall:
238

- 239 A. Review applications and plans to determine whether proposed new development will be located in
240 flood hazard areas.
- 241
- 242 B. Review applications for modification of any existing development in flood hazard areas for
243 compliance with the requirements of this Article.
- 244
- 245 C. Interpret flood hazard area boundaries where such interpretation is necessary to determine the
246 exact location of boundaries; a person contesting the determination shall have the opportunity to
247 appeal the interpretation.
- 248
- 249 D. Provide available flood elevation and flood hazard information.
- 250
- 251 E. Determine whether additional flood hazard data shall be obtained from other sources or shall be
252 developed by an applicant.
- 253
- 254 F. Review applications to determine whether proposed development will be reasonably safe from
255 flooding.
- 256
- 257 G. Issue floodplain development permits or approvals for development other than buildings and
258 structures that are subject to the Florida Building Code, including buildings, structures, and facilities
259 exempt from the Florida Building Code, when compliance with this Article is demonstrated, or
260 disapprove the same in the event of noncompliance.
- 261
- 262 H. Coordinate with and provide comments to the Building Official to assure that applications, plan
263 reviews, and inspections for buildings and structures in flood hazard areas comply with the
264 applicable provisions of this Article.
- 265

266 **Section 9.2.4. Substantial improvement and substantial damage determinations.**
267

268 For applications for building permits to improve buildings and structures, including alterations,
269 movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations,
270 renovations, substantial improvements, repairs of substantial damage, and any other improvement of or
271 work on such buildings and structures, the Floodplain Administrator, in coordination with the Building
272 Official, shall:

- 273
- 274 A. Estimate the market value, or require the applicant to obtain an appraisal of the market value
275 prepared by a qualified independent appraiser, of the building or structure before the start of
276 construction of the proposed work; in the case of repair, the market value of the building or

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277 structure shall be the market value before the damage occurred and before any repairs are made.

278

279 B. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-
280 damaged condition, or the combined costs of improvements and repairs, if applicable, to the market
281 value of the building or structure.

282

283 C. Determine and document whether the proposed work constitutes substantial improvement or
284 repair of substantial damage; the determination requires evaluation of previous permits issued for
285 improvements and repairs as specified in the definition of substantial improvement.

286

287 D. Notify the applicant if it is determined that the work constitutes substantial improvement or repair
288 of substantial damage and that compliance with the flood resistant construction requirements of
289 the Florida Building Code and this Article is required.

290

291 **Section 9.2.5. Modifications of the strict application of the requirements of the Florida Building Code.**

292

293 The Floodplain Administrator shall review requests submitted to the Building Official that seek approval
294 to modify the strict application of the flood load and flood resistant construction requirements of the
295 Florida Building Code to determine whether such requests require the granting of a variance pursuant to
296 § 9.6.1. of this Article.

297

298 **Section 9.2.6. Notices and orders.**

299

300 The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all
301 necessary notices or orders to ensure compliance with this Article.

302

303 **Section 9.2.7. Inspections.**

304

305 The Floodplain Administrator shall make the required inspections as specified in this Article for
306 development that is not subject to the Florida Building Code, including buildings, structures, and
307 facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard
308 areas to determine if development is undertaken without issuance of a permit.

309

310 **Section 9.2.8. Other duties of the Floodplain Administrator.**

311

312 The Floodplain Administrator shall have other duties, including:

313

314 A. Establish, in coordination with the Building Official, procedures for administering and documenting
315 determinations of substantial improvement and substantial damage made pursuant to § 9.2.4. of
316 this Article.

317

318 B. Require that applicants proposing alteration of a watercourse notify adjacent communities and the
319 Florida Division of Emergency Management, State Floodplain Management Office, and submit
320 copies of such notifications to the Federal Emergency Management Agency (FEMA).

321

322 C. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit

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323 applications to submit to FEMA the data and information necessary to maintain the Flood Insurance
324 Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or
325 floodway designations; such submissions shall be made within six months of such data becoming
326 available.
327

328 D. Review required design certifications and documentation of elevations specified by this Article and
329 the Florida Building Code and this Article to determine that such certifications and documentations
330 are complete.
331

332 E. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of
333 Cape Coral are modified.
334

335 F. Advise applicants for new buildings and structures, including substantial improvements, that are
336 located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier
337 Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591)
338 that federal flood insurance is not available on such construction; areas subject to this limitation are
339 identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise
340 Protected Areas."
341

342 **Section 9.2.9 Floodplain management records.**
343

344 Regardless of any limitation on the period required for retention of public records, the Floodplain
345 Administrator shall maintain and permanently keep and make available for public inspection all records
346 that are necessary for the administration of this Article and the flood resistant construction
347 requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Change;
348 records of issuance of permits and denial of permits; determinations of whether proposed work
349 constitutes substantial improvement or repair of substantial damage; required design certifications and
350 documentation of elevations specified by the Florida Building Code and this Article; notifications to
351 adjacent communities, FEMA and the state related to alterations of watercourses; assurances that the
352 flood carrying capacity of altered watercourses will be maintained; documentation related to appeals
353 and variances, including justification for issuance or denial; and records of enforcement actions taken
354 pursuant to this Article and the flood resistant construction requirements of the Florida Building Code.
355 These records shall be available for public inspection at the City Clerk's office, City of Cape Coral City
356 Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.
357

358 **CHAPTER 3. PERMITS**
359

360 **Section 9.3.1. Permits required.**
361

362 Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any
363 development activity within the scope of this Article, including buildings, structures, and facilities
364 exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area
365 shall first make application to the Floodplain Administrator and the Building Official, if applicable, and
366 shall obtain the required permit(s) and approvals). No such permit or approval shall be issued until
367 compliance with the requirements of this Article and all other applicable codes and regulations has been
368 satisfied.

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Section 9.3.2. Floodplain development permits or approvals.

Floodplain development permits or approvals shall be issued pursuant to this Article for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures, and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

Section 9.3.3. Buildings, structures, and facilities exempt from the Florida Building Code.

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures, and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this Article:

- A. Nonresidential farm buildings on farms, as provided in section F.S. § 604.50.
- B. Temporary buildings or sheds used exclusively for construction purposes.
- C. Mobile or modular structures used as temporary offices.
- D. Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.
- E. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida, As used in this paragraph, the term **CHICKEE** means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- F. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- G. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- H. Structures identified in section F.S. § 553.73(10)(k) are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.

Section 9.3.4. Application for a permit or approval.

To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the city. The information provided shall:

- A. Identify and describe the development to be covered by the permit or approval.

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- 415
416 B. Describe the land on which the proposed development is to be conducted by legal description,
417 street address, or similar description that will readily identify and definitively locate the site.
418
419 C. Indicate the use and occupancy for which the proposed development is intended.
420
421 D. Be accompanied by a site plan or construction documents as specified in § 9.4 of this Article.
422
423 E. State the valuation of the proposed work.
424
425 F. Be signed by the applicant or the applicant's authorized agent.
426
427 G. Give such other data and information as required by the Floodplain Administrator.
428

429 **Section 9.3.5. Validity of permit or approval.**

430
431 The issuance of a floodplain development permit or approval pursuant to this Article shall not be
432 construed to be a permit for, or approval of, any violation of this Article, the Florida Building Codes, or
433 any other regulation of the City of Cape Coral. The issuance of permits based on submitted applications,
434 construction documents, and information shall not prevent the Floodplain Administrator from requiring
435 the correction of errors and omissions.
436

437 **Section 9.3.6. Expiration.**

438
439 A floodplain development permit or approval shall become invalid unless the work authorized by such
440 permit is commenced within 180 days after its issuance, or if the work authorized is suspended or
441 abandoned for a period of 180 days after the work commences. Extensions for periods of not more than
442 180 days each shall be requested in writing and justifiable cause shall be demonstrated.
443

444 **Section 9.3.7. Suspension or revocation.**

445
446 The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or
447 approval if the permit was issued in error; on the basis of incorrect, inaccurate, or incomplete
448 information; or in violation of this Article or any other regulation or requirement of the City of Cape
449 Coral.
450

451 **Section 9.3.8. Other permits required.**

452
453 Floodplain development permits and building permits shall include a condition that all other applicable
454 state or federal permits be obtained before commencement of the permitted development, including
455 the following:
456

- 457 A. The South Florida Water Management District; F.S. § 373.036.
458
459 B. Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065
460 and Chapter 64E-6, F.A.C.

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- 461
462 C. Florida Department of Environmental Protection for construction, reconstruction, changes, or
463 physical activities for shore protection or other activities seaward of the coastal construction control
464 line; F.S. § 161.141.
465
466 D. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit;
467 F.S. § 161.055.
468
469 E. Florida Department of Environmental Protection for activities that affect wetlands and alter surface
470 water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water
471 Act.
472
473 F. Federal permits and approvals.
474

475 **CHAPTER 4. SITE PLANS AND CONSTRUCTION DOCUMENTS.**

476
477 **Section 9.4.1. Information for development in flood hazard areas.**

- 478
479 A. The site plan or construction documents for any development subject to the requirements of this
480 Article shall be drawn to scale and shall include, as applicable to the proposed development:
481
482 1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood
483 elevation(s), and ground elevations if necessary for review of the proposed development;
484
485 2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood
486 Insurance Study, they shall be established in accordance with § 9.4.2.(B) or (C) of this Article;
487
488 3. Where the parcel on which the proposed development will take place will have more than 50
489 lots or is larger than five acres and the base flood elevations are not included on the FIRM or in
490 the Flood Insurance Study, such elevations shall be established in accordance with § 9.4.2.(A) of
491 this Article;
492
493 4. Location of the proposed activity, and structures, and locations of existing buildings and
494 structures; in coastal high hazard areas, new buildings shall be located landward of the reach of
495 mean high tide;
496
497 5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation;
498
499 6. Where the placement of fill is proposed, the amount, type, and source of fill material;
500 compaction specifications; a description of the intended purpose of the fill areas; and evidence
501 that the proposed fill areas are the minimum necessary to achieve the intended purpose;
502
503 7. Delineation of the coastal construction control line or notation that the site is seaward of the
504 coastal construction control line, if applicable;
505
506 8. Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is

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507 approved by the Florida Department of Environmental Protection; and

508

509 9. Existing and proposed alignment of any proposed alteration of a watercourse.

510

511 B. The Floodplain Administrator is authorized to waive the submission of site plans, construction
512 documents, and other data that are required by this Article but that are not required to be prepared
513 by a registered design professional if it is found that the nature of the proposed development is such
514 that the review of such submissions is not necessary to ascertain compliance with this Article.

515

516 **Section 9.4.2. Information in flood hazard areas without base flood elevations (approximate Zone A).**

517

518 Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been
519 provided, the Floodplain Administrator shall:

520

521 A. Require the applicant to include base flood elevation data prepared in accordance with currently
522 accepted engineering practices.

523

524 B. Obtain, review, and provide to applicants base flood elevation and floodway data available from a
525 federal or state agency or other source or require the applicant to obtain and use base flood
526 elevation and floodway data available from a federal or state agency or other source.

527

528 C. Where base flood elevation and floodway data are not available from another source, where the
529 available data are deemed by the Floodplain Administrator to not reasonably reflect flooding
530 conditions, or where the available data are known to be scientifically or technically incorrect or
531 otherwise inadequate:

532

533 1. Require the applicant to include base flood elevation data prepared in accordance with
534 currently accepted engineering practices; or

535

536 2. Specify that the base flood elevation is two feet above the highest adjacent grade at the location
537 of the development, provided there is no evidence indicating flood depths have been or may be
538 greater than two feet; and

539

540 D. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA,
541 advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format
542 required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal
543 requirements and pay the processing fees.

544

545 **Section 9.4.3. Additional analyses and certifications.**

546

547 As applicable to the location and nature of the proposed development activity, and in addition to the
548 requirements of this section, the applicant shall have the following analyses signed and sealed by a
549 Florida licensed engineer for submission with the site plan and construction documents:

550

551 A. For development activities in a regulatory floodway, a floodway encroachment analysis that
552 demonstrates that the encroachment of the proposed development will not cause any increase in

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553 base flood elevations; where the applicant proposes to undertake development activities that do
554 increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in §
555 9.4.4. of this Article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with
556 the site plan and construction documents.
557

558 B. For development activities in a riverine flood hazard area for which base flood elevations are
559 included in the Flood Insurance Study or on the FIRM and floodways have not been designated,
560 hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed
561 development, when combined with all other existing and anticipated flood hazard area
562 encroachments, will not increase the base flood elevation more than one foot at any point within
563 the City of Cape Coral. This requirement does not apply in isolated flood hazard areas not connected
564 to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
565

566 C. For alteration of a watercourse, an engineering analysis prepared in accordance with standard
567 engineering practices which demonstrates that the flood-carrying capacity of the altered or
568 relocated portion of the watercourse will not be decreased, and certification that the altered
569 watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity;
570 the applicant shall submit the analysis to FEMA as specified in § 9.4.4. of this Article.
571

572 D. For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas
573 (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase
574 the potential for flood damage.
575

576 **Section 9.4.4. Submission of additional data.**

577
578 When additional hydrologic, hydraulic, or other engineering data, studies, and additional analyses are
579 submitted to support an application, the applicant has the right to seek a Letter of Map Change from
580 FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood
581 hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be
582 prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and
583 processing fees shall be the responsibility of the applicant.
584

585 **CHAPTER 5. INSPECTIONS.**

586
587 **Section 9.5.1. General.**

588
589 Development for which a floodplain development permit or approval is required shall be subject to
590 inspection.
591

592 **Section 9.5.2. Development other than buildings and structures.**

593
594 The Floodplain Administrator shall inspect all development to determine compliance with the
595 requirements of this Article and the conditions of issued floodplain development permits or approvals.
596

597 **Section 9.5.3. Buildings, structures and facilities exempt from the Florida Building Code.**

598

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599 The Floodplain Administrator shall inspect buildings, structures, and facilities exempt from the Florida
600 Building Code to determine compliance with the requirements of this Article and the conditions of
601 issued floodplain development permits or approvals.
602

603 **Section 9.5.4. Buildings, structures, and facilities exempt from the Florida Building Code, lowest floor**
604 **inspection.**

605
606 Upon placement of the lowest floor, including basement, and prior to further vertical construction, the
607 owner of a building, structure, or facility exempt from the Florida Building Code shall submit to the
608 Floodplain Administrator:

- 609
610 A. If a design flood elevation was used to determine the required elevation of the lowest floor, the
611 certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional
612 surveyor; or
613
614 B. If the elevation used to determine the required elevation of the lowest floor was determined in
615 accordance with § 9.4.2.(C)(2) of this Article, the documentation of height of the lowest floor above
616 highest adjacent grade, prepared by the owner.
617

618 **Section 9.5.5. Buildings, structures, and facilities exempt from the Florida Building Code, final**
619 **inspection.**

620
621 As part of the final inspection, the owner shall submit a final certification of elevation of the lowest floor
622 or final documentation of the height of the lowest floor above the highest adjacent grade; such
623 certifications and documentations shall be prepared as specified in § 9.5.4. of this Article.
624

625 **Section 9.5.6. Manufactured homes.**

626
627 The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood
628 hazard areas to determine compliance with the requirements of this Article and the conditions of the
629 issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest
630 floor shall be submitted.
631

632 **CHAPTER 6. VARIANCES AND APPEALS.**

633
634 **Section 9.6.1. Variances.**

635
636 The Cape Coral Hearing Examiner shall hear and decide on requests for requests for variances from the
637 strict application of this Article. Pursuant to F.S. § 553.73(5), the Cape Coral Hearing Examiner shall hear
638 and decide on requests for appeals and requests for variances from the strict application of the flood
639 resistant construction requirements of the Florida Building Code. This section does not apply to Section
640 3109 of the Florida Building Code, Building.
641

642 **Section 9.6.2. Appeals.**

643
644 The Cape Coral Hearing Examiner shall hear and decide appeals when it is alleged there is an error in any

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645 requirement, decision, or determination made by the Floodplain Administrator in the administration
646 and enforcement of this Article. Any person aggrieved by the decision of Cape Coral Hearing Examiner
647 may appeal such decision to the Cape Coral City Council, as provided by Article 2 of the Land
648 Development Code.

649

650 **Section 9.6.3. Limitations on authority to grant variances.**

651 The Cape Coral Hearing Examiner shall base his or her decisions on variances on technical justifications
652 submitted by applicants, the considerations for issuance in § 9.6.7. of this Article, the conditions of
653 issuance set forth in § 9.6.8. of this Article, and the comments and recommendations of the Floodplain
654 Administrator and the Building Official. The Cape Coral Hearing Examiner has the right to attach such
655 conditions as deemed necessary to further the purposes and objectives of this Article.

656

657 **Section 9.6.4. Restrictions in floodways.**

658

659 A variance shall not be issued for any proposed development in a floodway if any increase in base flood
660 elevations would result, as evidenced by the applicable analyses and certifications required in § 9.4.3. of
661 this Article.

662

663 **Section 9.6.5. Historic buildings.**

664

665 A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building
666 that is determined eligible for the exception to the flood resistant construction requirements of the
667 Florida Building Code, Existing Building, Chapter 11 Historic Buildings, upon a determination that the
668 proposed repair, improvement, or rehabilitation will not preclude the building's continued designation
669 as a historic building and the variance is the minimum necessary to preserve the historic character and
670 design of the building. If the proposed work precludes the building's continued designation as a historic
671 building, a variance shall not be granted and the building and any repair, improvement, and
672 rehabilitation shall be subject to the requirements of the Florida Building Code.

673

674 **Section 9.6.6. Functionally dependent uses.**

675

676 A variance is authorized to be issued for the construction or substantial improvement necessary for the
677 conduct of a functionally dependent use, as defined in this Article, provided the variance meets the
678 requirements of § 9.6.4., is the minimum necessary considering the flood hazard, and all due
679 consideration has been given to use of methods and materials that minimize flood damage during
680 occurrence of the base flood.

681

682 **Section 9.6.7. Considerations for issuance of variances.**

683

684 In reviewing requests for variances, the Cape Coral Hearing Examiner shall consider all technical
685 evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this Article,
686 and the following:

687

- 688 A. The danger that materials and debris may be swept onto other lands resulting in further injury or
689 damage;

690

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- 691 B. The danger to life and property due to flooding or erosion damage;
692
693 C. The susceptibility of the proposed development, including contents, to flood damage and the effect
694 of such damage on current and future owners;
695
696 D. The importance of the services provided by the proposed development to the City of Cape Coral;
697
698 E. The availability of alternate locations for the proposed development that are subject to lower risk of
699 flooding or erosion;
700
701 F. The compatibility of the proposed development with existing and anticipated development;
702
703 G. The relationship of the proposed development to the comprehensive plan and floodplain
704 management program for the area;
705
706 H. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
707
708 I. The expected heights, velocity, duration, rate of rise, and debris and sediment transport of the
709 floodwaters and the effects of wave action, if applicable, expected at the site; and
710
711 J. The costs of providing governmental services during and after flood conditions including
712 maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water
713 systems, streets, and bridges.
714

715 **Section 9.6.8. Conditions for issuance of variances.**

716
717 Variances shall be issued only upon:

- 718
719 A. Submission by the applicant of a showing of good and sufficient cause that the unique
720 characteristics of the size, configuration, or topography of the site limit compliance with any
721 provision of this Article or the required elevation standards;
722
723 B. Determination by the Cape Coral Hearing Examiner that:
724
725 1. Failure to grant the variance would result in exceptional hardship due to the physical
726 characteristics of the land that render the lot undevelopable; increased costs to satisfy the
727 requirements, or inconvenience do not constitute hardship;
728
729 2. The granting of a variance will not result in increased flood heights, additional threats to public
730 safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the
731 public, or conflict with existing local laws and ordinances; and
732
733 3. The variance is the minimum necessary, considering the flood hazard, to afford relief;
734
735 C. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the
736 Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected

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737 parcel of land; and

738

739 D. If the request is for a variance to allow construction of the lowest floor of a new building or
740 substantial improvement of a building below the required elevation, a copy in the record of a
741 written notice from the Floodplain Administrator to the applicant for the variance, specifying the
742 difference between the base flood elevation and the proposed elevation of the lowest floor, stating
743 that the cost of federal flood insurance will be commensurate with the increased risk resulting from
744 the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and
745 stating that construction below the base flood elevation increases risks to life and property.

746

747 **Chapter 7. VIOLATIONS.**

748

749 **Section 9.7.1. Violations.**

750

751 Any development that is not within the scope of the Florida Building Code but that is regulated by this
752 Article that is performed without an issued permit, that is in conflict with an issued permit or that does
753 not fully comply with this Article, shall be deemed a violation of this Article. A building or structure
754 without the documentation of elevation of the lowest floor, other required design certifications, or
755 other evidence of compliance required by this Article or the Florida Building Code is presumed to be a
756 violation until such time as that documentation is provided.

757

758 **Section 9.7.2. Authority.**

759

760 For development that is not within the scope of the Florida Building Code but regulated by this Article
761 and determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation
762 or stop work orders to owners of the property involved, to the owner's agent, or to the person or
763 persons performing the work.

764

765 **Section 9.7.3. Unlawful continuance.**

766

767 Any person who shall continue any work after having been served with a notice of violation or a stop
768 work order, except such work as that person is directed to perform to remove or remedy a violation or
769 unsafe condition, shall be subject to penalties as prescribed by law.

770

771 **CHAPTER 8. FLOOD RESISTANT DEVELOPMENT**

772

773 **Section 9.8.1. Design and construction of buildings, structures, and facilities exempt from the Florida
774 Building Code.**

775

776 Pursuant to § 9.3.3. of this Article, buildings, structures, and facilities that are exempt from the Florida
777 Building Code, including substantial improvement or repair of substantial damage of such buildings,
778 structures, and facilities, shall be designed and constructed in accordance with the flood load and flood
779 resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that
780 are not walled and roofed buildings shall comply with the requirements of § 9.8.14. of this Article.

781

782 **Section 9.8.2. Buildings and structures seaward of the coastal construction control line.**

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783
784 If extending, in whole or in part, seaward of the coastal construction control line and also, in whole or in
785 part, in a flood hazard area:

- 786
787 A. Buildings and structures shall be designed and constructed to comply with the more restrictive
788 applicable requirements of the Florida Building Code, Building Section 3109 and Section 1612 or
789 Florida Building Code, Residential Section R322; and
790
791 B. Minor structures and non-habitable major structures as defined in F.S. § 161.54, shall be designed and
792 constructed to comply with the intent and applicable provisions of this Article and ASCE 24.
793

794 **Section 9.8.3. Subdivision Minimum requirements.**

795
796 Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be
797 reviewed to determine that:

- 798
799 A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe
800 from flooding;
801
802 B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are
803 located and constructed to minimize or eliminate flood damage; and
804
805 C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate
806 drainage paths shall be provided to guide floodwaters around and away from proposed structures.
807

808 **Section 9.8.4. Subdivision plats.**

809
810 Where any portion of proposed subdivisions lies within a flood hazard area, the following shall be
811 required:

- 812
813 A. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations,
814 as appropriate, shall be shown on preliminary plats;
815
816 B. Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are
817 not included on the FIRM, the base flood elevations determined in accordance with § 9.4.2. of this
818 Article; and
819
820 C. Compliance with the site improvement and utilities requirements of § 9.8.5., 9.8.6., 9.8.7., 9.8.8.,
821 9.8.9., and 9.8.10. of this Article.
822

823 **Section 9.8.5. Minimum requirements for site improvements, utilities, and limitations.**

824
825 All proposed new development shall be reviewed to determine that:

- 826
827 A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe
828 from flooding;

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829
830 B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are
831 located and constructed to minimize or eliminate flood damage; and
832

833 C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate
834 drainage paths shall be provided to guide floodwaters around and away from proposed structures.
835

836 **Section 9.8.6. Sanitary sewage facilities.**
837

838 All new and replacement sanitary sewage facilities, private sewage treatment plants (including all
839 pumping stations and collector systems), and on-site waste disposal systems shall be designed in
840 accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C.
841 and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge
842 from the facilities into flood waters, and impairment of the facilities and systems.
843

844 **Section 9.8.7. Water supply facilities.**
845

846 All new and replacement water supply facilities shall be designed in accordance with the water well
847 construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate
848 infiltration of floodwaters into the systems.
849

850 **Section 9.8.8. Limitations on sites in regulatory floodways.**
851

852 No development, including site improvements and land disturbing activity involving fill or regrading shall
853 be authorized in the regulatory floodway unless the floodway encroachment analysis required in § 9.4.3.
854 of this Article demonstrates that the proposed development or land disturbing activity will not result in
855 any increase in the base flood elevation.
856

857 **Section 9.8.9. Limitations on placement of fill.**
858

859 Subject to the limitations of this Article, fill shall be designed to be stable under conditions of flooding
860 including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against
861 flood-related erosion and scour. In addition to these requirements, if intended to support buildings and
862 structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.
863

864 **Section 9.8.10. Limitations on sites in coastal high hazard areas (Zone V).**
865

866 In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such
867 alteration is approved by the Florida Department of Environmental Protection and only if the engineering
868 analysis required by § 9.4.3.(D) of this Article demonstrates that the proposed alteration | will not increase
869 the potential for flood damage. Construction or restoration of dunes under or around elevated buildings
870 and structures shall comply with § 9.8.14.(H) of this Article.
871

872 **Section 9.8.11. Manufactured homes.**
873

874 A. General. All manufactured homes installed in flood hazard areas shall be installed by an installer that

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875 is licensed pursuant to F.S. § 320.8249, and shall comply with the requirements of Chapter 15C-1,
876 F.A.C. and the requirements of this Article. If located seaward of the coastal construction control line,
877 all manufactured homes shall comply with the more restrictive of the applicable requirements.
878

879 B. Foundations. All new manufactured homes and replacement manufactured homes installed in flood
880 hazard areas shall be installed on permanent, reinforced foundations that:

881
882 1. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance
883 with the foundation requirements of the Florida Building Code, Residential Section R322.2 and
884 this Article; and

885
886 2. In coastal high hazard areas (Zone V), are designed in accordance with the foundation
887 requirements of the Florida Building Code, Residential Section R322.3 and this Article.
888

889 C. Anchoring. All new manufactured homes and replacement manufactured homes shall be installed
890 using methods and practices which minimize flood damage and shall be securely anchored to an
891 adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods
892 of anchoring include use of over-the-top or frame ties to ground anchors. This anchoring requirement
893 is in addition to applicable state and local anchoring requirements for wind resistance.
894

895 D. Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply
896 with one of the following requirements, as applicable:

897
898 1. General elevation requirement. Unless subject to the requirements of § 9.8.11.D.2. of this Article,
899 all manufactured homes that are placed, replaced, or substantially improved on sites: (a) outside
900 of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision;
901 (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing
902 manufactured home park or subdivision upon which a manufactured home has incurred
903 substantial damage as the result of a flood, shall be elevated such that the bottom of the frame
904 is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building
905 Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V);
906

907 2. Elevation requirement for certain existing manufactured home parks and subdivisions.
908 Manufactured homes that are not subject to § 9.8.11.D.1. of this Article, including manufactured
909 homes that are placed, replaced, or substantially improved on sites located in an existing
910 manufactured home park or subdivision, unless on a site where substantial damage as result of
911 flooding has occurred, shall be elevated such that either the:

912
913 a. Bottom of the frame of the manufactured home is at or above the elevation required, as
914 applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2
915 (Zone A) or Section R322.3 (Zone V); or

916
917 b. Bottom of the frame is supported by reinforced piers or other foundation elements of at least
918 equivalent strength that are not less than 36 inches in height above grade.
919

920 E. Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements

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921 of the Florida Building Code, Residential Section R322 for such enclosed areas, as applicable to the
922 flood hazard area.

923
924 F. Utility equipment. Utility equipment that serves manufactured homes, including electric, heating,
925 ventilation, plumbing, air conditioning equipment, and other service facilities shall comply with the
926 requirements of the Florida Building Code, Residential Section R322, as applicable to the flood hazard
927 area.

928
929 **Section 9.8.12. Recreational vehicles and park trailers.**

930
931 A. Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas
932 shall:

- 933
934 1. Be on the site for fewer than 180 consecutive days; and
935
936 2. Be fully licensed and ready for highway use, which means the recreational vehicle or park model
937 is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and
938 security devices, and has no permanent attachments such as additions, rooms, stairs, decks, and
939 porches.

940
941 B. Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in §
942 9.8.12.A. of this Article for temporary placement shall meet the requirements of § 9.8.11. of this
943 Article for manufactured homes.

944
945 **Section 9.8.13. Tanks.**

946
947 A. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation,
948 collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions
949 of the design flood, including the effects of buoyancy assuming the tank is empty.

950
951 B. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements
952 of § 9.8.13.C. of this Article shall:

- 953
954 1. Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the
955 tanks are anchored or otherwise designed and constructed to prevent flotation, collapse, or
956 lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the
957 design flood, including the effects of buoyancy assuming the tank is empty and the effects of
958 flood-borne debris; and

959
960 2. Not be permitted in coastal high hazard areas (Zone V).

961
962 C. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and
963 elevated to or above the design flood elevation on a supporting structure that is designed to prevent
964 flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting
965 structures shall meet the foundation requirements of the applicable flood hazard area.

966

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- 967 D. Tank inlets and vents. Tank inlets, fill openings, outlets, and vents shall be:
968
969 1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of
970 floodwater or outflow of the contents of the tanks during conditions of the design flood; and
971
972 2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads,
973 including the effects of buoyancy, during conditions of the design flood.
974

975 **Section 9.8.14. Other development.**
976

- 977 A. General requirements for other development. All development, including man-made changes to
978 improved or unimproved real estate for which specific provisions are not specified in this Article or
979 the Florida Building Code, shall:
980
981 1. Be located and constructed to minimize flood damage;
982
983 2. Meet the limitations of § 9.8.8. of this Article if located in a regulated floodway;
984
985 3. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads,
986 including the effects of buoyancy, during conditions of the design flood;
987
988 4. Be constructed of flood damage- resistant materials; and
989
990 5. Have mechanical, plumbing, and electrical systems above the design flood elevation, except that
991 minimum electric service required to address life safety and electric code requirements is
992 permitted below the design flood elevation provided it conforms to the provisions of the electrical
993 part of building code for wet locations.
994
995 B. Fences in regulated floodways. Fences in regulated floodways that have the potential to block the
996 passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of
997 § 9.8.8. of this Article.
998
999 C. Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and sidewalks and
1000 driveways that involve the placement of fill in regulated floodways shall meet the limitations of §
1001 9.8.8. of this Article.
1002
1003 D. Roads and watercourse crossings in regulated floodways. Roads and watercourse crossings, including
1004 roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel
1005 from one side of a watercourse to the other side, that encroach into regulated floodways, shall meet
1006 the limitations of § 9.8.8. of this Article. Alteration of a watercourse that is part of a road or
1007 watercourse crossing shall meet the requirements of § 9.4.3.C. of this Article.
1008
1009 E. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios, and similar
1010 nonstructural uses in coastal high hazard areas (Zone V).
1011
1012 In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks,

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1013 walkways, patios, and similar nonstructural uses are permitted beneath or adjacent to buildings and
1014 structures provided the concrete slabs are designed and constructed to be:

- 1015
- 1016 1. Structurally independent of the foundation system of the building or structure;
 - 1017
 - 1018 2. Frangible and not reinforced, to minimize debris during flooding that is capable of causing
 - 1019 significant damage to any structure; and
 - 1020
 - 1021 3. Have a maximum slab thickness of not more than four inches.
 - 1022

1023 F. Decks and patios in coastal high hazard areas (Zone V). In addition to the requirements of the Florida
1024 Building Code, in coastal high hazard areas decks and patios shall be located, designed, and
1025 constructed in compliance with the following:

- 1026
- 1027 1. A deck that is structurally attached to a building or structure shall have the bottom of the lowest
1028 horizontal structural member at or above the design flood elevation and any supporting members
1029 that extend below the design flood elevation shall comply with the foundation requirements that
1030 apply to the building or structure, which shall be designed to accommodate any increased loads
1031 resulting from the attached deck;
 - 1032
 - 1033 2. A deck or patio that is located below the design flood elevation shall be structurally independent
1034 from buildings or structures and their foundation systems and shall be designed and constructed
1035 either to remain intact and in place during design flood conditions or to break apart into small
1036 pieces to minimize debris during flooding that is capable of causing structural damage to the
1037 building or structure or to adjacent buildings and structures;
 - 1038
 - 1039 3. A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with
1040 more than the minimum amount of fill necessary for site drainage shall not be approved unless
1041 an analysis prepared by a qualified registered design professional demonstrates no harmful
1042 diversion of floodwaters or wave runup and wave reflection that would increase damage to the
1043 building or structure or to adjacent buildings and structures; and
 - 1044
 - 1045 4. A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on
1046 nonstructural fill material that is similar to and compatible with local soils and is the minimum
1047 amount necessary for site drainage may be approved without requiring analysis of the impact on
1048 diversion of floodwaters or wave runup and wave reflection.
 - 1049

1050 G. Other development in coastal high hazard areas (Zone V).

1051
1052 In coastal high hazard areas, development activities other than buildings and structures shall be
1053 permitted only if also authorized by the appropriate federal, state, or local authority; if located outside
1054 the footprint of and not structurally attached to buildings and structures; and if analyses prepared by
1055 qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave
1056 runup and wave reflection that would increase damage to adjacent buildings and structures. Such
1057 other development activities include but are not limited to:

1058

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- 1059 1. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
1060
1061 2. Solid fences, privacy walls, and fences prone to trapping debris, unless designed and constructed
1062 to fail under flood conditions less than the design flood or otherwise function to avoid obstruction
1063 of floodwaters; and
1064
1065 3. On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or
1066 mound systems.
1067
1068 H. Nonstructural fill in coastal high hazard areas (Zone V).
1069
1070 1. Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for
1071 landscaping and for drainage purposes under and around buildings.
1072
1073 2. Nonstructural fill with finished slopes that are steeper than one unit vertical to five units
1074 horizontal shall be permitted only if an analysis prepared by a qualified registered design
1075 professional demonstrates no harmful diversion of floodwaters or wave runup and wave
1076 reflection that would increase damage to adjacent buildings and structures.
1077
1078 3. Where authorized by the Florida Department of Environmental Protection or applicable local
1079 approval, sand dune construction and restoration of sand dunes under or around elevated
1080 buildings are permitted without additional engineering analysis or certification of the diversion of
1081 floodwater or wave runup and wave reflection if the scale and location of the dune work is
1082 consistent with local beach-dune morphology and the vertical clearance is maintained between
1083 the top of the sand dune and the lowest horizontal structural member of the building.
1084

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48

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57

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59

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68

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76

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92

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93 **CHAPTER 1: ADMINISTRATION**

94

95 **Section 9.1.1. Title.**

96

97 These regulations shall be known as the Floodplain Management Ordinance of the City of Cape Coral.

98

99 **Section 9.1.2. Scope.**

100

101 The provisions of this Article shall apply to all development that is wholly within or partially within any
102 flood hazard area, including the subdivision of land; filling, grading, other site improvements, and utility
103 installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair,
104 relocation, or demolition of buildings, structures, and facilities that are exempt from the Florida Building
105 Code; placement, installation, or replacement of manufactured homes and manufactured buildings;
106 installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools;
107 and any other action or activity defined as development.

108

109 **Section 9.1.3. Purpose and Intent.**

110

111 The purposes of this Article and the flood load and flood resistant construction requirements of the
112 Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and
113 general welfare and to minimize public and private losses due to flooding through regulation of
114 development in flood hazard areas to:

115

116 A. Minimize unnecessary disruption of commerce, access, and public service during times of flooding;

117

118 B. Require the use of appropriate construction practices in order to prevent or minimize future flood
119 damage;

120

121 C. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of
122 equipment or materials, and other development which may increase flood damage or erosion
123 potential;

124

125 D. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact
126 of development on the natural and beneficial functions of the floodplain;

127

128 E. Minimize damage to public and private facilities and utilities;

129

130 F. Help maintain a stable tax base by providing for the sound use and development of flood hazard
131 areas;

132

133 G. Minimize the need for future expenditure of public funds for flood control projects and response to
134 and recovery from flood events; and

135

136 H. Meet the requirements of the National Flood Insurance Program for community participation as set
137 forth in the Title 44 Code of Federal Regulations, Section 59.22.

138

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139 **Section 9.1.4. Coordination with the Florida Building Code.**

140
141 This Article is intended to be administered and enforced in conjunction with the Florida Building Code.
142 Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building
143 Code.
144

145 **Section 9.1.5. Warning.**

146
147 The degree of flood protection required by this Article and the Florida Building Code is considered the
148 minimum reasonable for regulatory purposes and is based on scientific and engineering considerations.
149 Larger floods can and will occur. Flood heights may be increased by man- made or natural causes. This
150 Article does not imply that land outside of mapped special flood hazard areas or that uses permitted
151 within such flood hazard areas will be free from flooding or flood damage. The flood hazard areas and
152 base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps
153 and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the
154 Federal Emergency Management Agency, requiring this city to revise these regulations to remain eligible
155 for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or
156 future use is implied or expressed by compliance with this Article.
157

158 **Section 9.1.6. Disclaimer of liability.**

159
160 This Article shall not create liability on the part of the City of Cape Coral or by any officer or employee
161 thereof for any flood damage that results from reliance on this Article or any administrative decision
162 lawfully made thereunder.
163

164 **Section 9.1.7. Applicability.**

- 165
166 A. Where there is a conflict between a general requirement and a specific requirement, the specific
167 requirement shall be applicable.
168
169 B. This Article shall apply to all development in flood hazard areas within the City of Cape Coral, as
170 established in § 9.1.8. of this Article.
171

172 **Section 9.1.8. Basis for establishing flood hazard areas.**

173
174 The Flood Insurance Study for Lee County, FL and Incorporated Areas dated August 28, 2008, the
175 accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions are
176 adopted by reference as a part of this Article and shall serve as the minimum basis for establishing flood
177 hazard areas. Studies and maps that establish flood hazard areas are on file at the City Clerk's office, City
178 of Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.
179

180 **Section 9.1.9. Submission of additional data to establish flood hazard areas.**

181
182 To establish flood hazard areas and base flood elevations pursuant to § 9.1.8 of this Article, the
183 Floodplain Administrator may require submission of additional data. Additional data may be required
184 where field surveyed topography prepared by a Florida licensed professional surveyor or digital

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185 topography accepted by the city indicates that ground elevations:

186

187 A. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood
188 hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the
189 requirements of this Article and, as applicable, the requirements of the Florida Building Code: or

190

191 B. Are above the closest applicable base flood elevation, the area shall be regulated as special flood
192 hazard area unless the applicant obtains a Letter of Map Change that removes the area from the
193 special flood hazard area.

194

195 **Section 9.1.10. Other laws.**

196

197 The provisions of this Article shall not be deemed to nullify any provisions of local state or federal law.

198

199 **Section 9.1.11. Abrogation and greater restrictions.**

200

201 This Article supersedes any regulation in effect for management of development in flood hazard areas.
202 However, it is not intended to repeal or abrogate any existing regulations, including land development
203 regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In
204 the event of a conflict between this Article and any other regulation, the more restrictive shall govern.
205 This Article shall not impair any deed restriction, covenant, or easement but any land that is subject to
206 such interests shall also be governed by this Article.

207

208 **Section 9.1.12. Interpretation.**

209

210 In the interpretation and application of this Article, all provisions shall be:

211

212 A. Considered as minimum requirements;

213

214 B. Liberally construed in favor of the governing body; and

215

216 C. Deemed neither to limit nor repeal any other powers granted under state statutes.

217

218 **CHAPTER 2. DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR.**

219

220 **Section 9.2.1. Designation.**

221

222 The Director of the Department of Community Development is designated as the Floodplain
223 Administrator. The Floodplain Administrator may delegate performance of certain duties to other
224 employees.

225

226 **Section 9.2.2. General.**

227

228 The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this
229 Article. The Floodplain Administrator shall have the authority to render interpretations of this Article
230 consistent with the intent and purpose of this Article and may establish policies and procedures in order

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231 to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have
232 the effect of waiving requirements specifically provided in this Article without the granting of a variance
233 pursuant to § 9.6.1. of this Article.
234

235 **Section 9.2.3. Applications and permits.**
236

237 The Floodplain Administrator, in coordination with other pertinent offices of the city, shall:
238

- 239 A. Review applications and plans to determine whether proposed new development will be located in
240 flood hazard areas.
- 241
- 242 B. Review applications for modification of any existing development in flood hazard areas for
243 compliance with the requirements of this Article.
- 244
- 245 C. Interpret flood hazard area boundaries where such interpretation is necessary to determine the
246 exact location of boundaries; a person contesting the determination shall have the opportunity to
247 appeal the interpretation.
- 248
- 249 D. Provide available flood elevation and flood hazard information.
- 250
- 251 E. Determine whether additional flood hazard data shall be obtained from other sources or shall be
252 developed by an applicant.
- 253
- 254 F. Review applications to determine whether proposed development will be reasonably safe from
255 flooding.
- 256
- 257 G. Issue floodplain development permits or approvals for development other than buildings and
258 structures that are subject to the Florida Building Code, including buildings, structures, and facilities
259 exempt from the Florida Building Code, when compliance with this Article is demonstrated, or
260 disapprove the same in the event of noncompliance.
- 261
- 262 H. Coordinate with and provide comments to the Building Official to assure that applications, plan
263 reviews, and inspections for buildings and structures in flood hazard areas comply with the
264 applicable provisions of this Article.
- 265

266 **Section 9.2.4. Substantial improvement and substantial damage determinations.**
267

268 For applications for building permits to improve buildings and structures, including alterations,
269 movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations,
270 renovations, substantial improvements, repairs of substantial damage, and any other improvement of or
271 work on such buildings and structures, the Floodplain Administrator, in coordination with the Building
272 Official, shall:

- 273
- 274 A. Estimate the market value, or require the applicant to obtain an appraisal of the market value
275 prepared by a qualified independent appraiser, of the building or structure before the start of
276 construction of the proposed work; in the case of repair, the market value of the building or

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277 structure shall be the market value before the damage occurred and before any repairs are made.

278

279 B. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-
280 damaged condition, or the combined costs of improvements and repairs, if applicable, to the market
281 value of the building or structure.

282

283 C. Determine and document whether the proposed work constitutes substantial improvement or
284 repair of substantial damage; the determination requires evaluation of previous permits issued for
285 improvements and repairs as specified in the definition of substantial improvement.

286

287 D. Notify the applicant if it is determined that the work constitutes substantial improvement or repair
288 of substantial damage and that compliance with the flood resistant construction requirements of
289 the Florida Building Code and this Article is required.

290

291 **Section 9.2.5. Modifications of the strict application of the requirements of the Florida Building Code.**

292

293 The Floodplain Administrator shall review requests submitted to the Building Official that seek approval
294 to modify the strict application of the flood load and flood resistant construction requirements of the
295 Florida Building Code to determine whether such requests require the granting of a variance pursuant to
296 § 9.6.1. of this Article.

297

298 **Section 9.2.6. Notices and orders.**

299

300 The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all
301 necessary notices or orders to ensure compliance with this Article.

302

303 **Section 9.2.7. Inspections.**

304

305 The Floodplain Administrator shall make the required inspections as specified in this Article for
306 development that is not subject to the Florida Building Code, including buildings, structures, and
307 facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard
308 areas to determine if development is undertaken without issuance of a permit.

309

310 **Section 9.2.8. Other duties of the Floodplain Administrator.**

311

312 The Floodplain Administrator shall have other duties, including:

313

314 A. Establish, in coordination with the Building Official, procedures for administering and documenting
315 determinations of substantial improvement and substantial damage made pursuant to § 9.2.4. of
316 this Article.

317

318 B. Require that applicants proposing alteration of a watercourse notify adjacent communities and the
319 Florida Division of Emergency Management, State Floodplain Management Office, and submit
320 copies of such notifications to the Federal Emergency Management Agency (FEMA).

321

322 C. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit

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323 applications to submit to FEMA the data and information necessary to maintain the Flood Insurance
324 Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or
325 floodway designations; such submissions shall be made within six months of such data becoming
326 available.
327

328 D. Review required design certifications and documentation of elevations specified by this Article and
329 the Florida Building Code and this Article to determine that such certifications and documentations
330 are complete.
331

332 E. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of
333 Cape Coral are modified.
334

335 F. Advise applicants for new buildings and structures, including substantial improvements, that are
336 located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier
337 Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591)
338 that federal flood insurance is not available on such construction; areas subject to this limitation are
339 identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise
340 Protected Areas."
341

342 **Section 9.2.9 Floodplain management records.**
343

344 Regardless of any limitation on the period required for retention of public records, the Floodplain
345 Administrator shall maintain and permanently keep and make available for public inspection all records
346 that are necessary for the administration of this Article and the flood resistant construction
347 requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Change;
348 records of issuance of permits and denial of permits; determinations of whether proposed work
349 constitutes substantial improvement or repair of substantial damage; required design certifications and
350 documentation of elevations specified by the Florida Building Code and this Article; notifications to
351 adjacent communities, FEMA and the state related to alterations of watercourses; assurances that the
352 flood carrying capacity of altered watercourses will be maintained; documentation related to appeals
353 and variances, including justification for issuance or denial; and records of enforcement actions taken
354 pursuant to this Article and the flood resistant construction requirements of the Florida Building Code.
355 These records shall be available for public inspection at the City Clerk's office, City of Cape Coral City
356 Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.
357

358 **CHAPTER 3. PERMITS**
359

360 **Section 9.3.1. Permits required.**
361

362 Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any
363 development activity within the scope of this Article, including buildings, structures, and facilities
364 exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area
365 shall first make application to the Floodplain Administrator and the Building Official, if applicable, and
366 shall obtain the required permit(s) and approvals). No such permit or approval shall be issued until
367 compliance with the requirements of this Article and all other applicable codes and regulations has been
368 satisfied.

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Section 9.3.2. Floodplain development permits or approvals.

Floodplain development permits or approvals shall be issued pursuant to this Article for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures, and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

Section 9.3.3. Buildings, structures, and facilities exempt from the Florida Building Code.

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures, and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this Article:

- A. Nonresidential farm buildings on farms, as provided in section F.S. § 604.50.
- B. Temporary buildings or sheds used exclusively for construction purposes.
- C. Mobile or modular structures used as temporary offices.
- D. Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.
- E. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida, As used in this paragraph, the term **CHICKEE** means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- F. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- G. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- H. Structures identified in section F.S. § 553.73(10)(k) are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.

Section 9.3.4. Application for a permit or approval.

To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the city. The information provided shall:

- A. Identify and describe the development to be covered by the permit or approval.

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- 415
416 B. Describe the land on which the proposed development is to be conducted by legal description,
417 street address, or similar description that will readily identify and definitively locate the site.
418
419 C. Indicate the use and occupancy for which the proposed development is intended.
420
421 D. Be accompanied by a site plan or construction documents as specified in § 9.4 of this Article.
422
423 E. State the valuation of the proposed work.
424
425 F. Be signed by the applicant or the applicant's authorized agent.
426
427 G. Give such other data and information as required by the Floodplain Administrator.
428

429 **Section 9.3.5. Validity of permit or approval.**

430
431 The issuance of a floodplain development permit or approval pursuant to this Article shall not be
432 construed to be a permit for, or approval of, any violation of this Article, the Florida Building Codes, or
433 any other regulation of the City of Cape Coral. The issuance of permits based on submitted applications,
434 construction documents, and information shall not prevent the Floodplain Administrator from requiring
435 the correction of errors and omissions.
436

437 **Section 9.3.6. Expiration.**

438
439 A floodplain development permit or approval shall become invalid unless the work authorized by such
440 permit is commenced within 180 days after its issuance, or if the work authorized is suspended or
441 abandoned for a period of 180 days after the work commences. Extensions for periods of not more than
442 180 days each shall be requested in writing and justifiable cause shall be demonstrated.
443

444 **Section 9.3.7. Suspension or revocation.**

445
446 The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or
447 approval if the permit was issued in error; on the basis of incorrect, inaccurate, or incomplete
448 information; or in violation of this Article or any other regulation or requirement of the City of Cape
449 Coral.
450

451 **Section 9.3.8. Other permits required.**

452
453 Floodplain development permits and building permits shall include a condition that all other applicable
454 state or federal permits be obtained before commencement of the permitted development, including
455 the following:
456

- 457 A. The South Florida Water Management District; F.S. § 373.036.
458
459 B. Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065
460 and Chapter 64E-6, F.A.C.

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- 461
462 C. Florida Department of Environmental Protection for construction, reconstruction, changes, or
463 physical activities for shore protection or other activities seaward of the coastal construction control
464 line; F.S. § 161.141.
465
466 D. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit;
467 F.S. § 161.055.
468
469 E. Florida Department of Environmental Protection for activities that affect wetlands and alter surface
470 water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water
471 Act.
472
473 F. Federal permits and approvals.
474

475 **CHAPTER 4. SITE PLANS AND CONSTRUCTION DOCUMENTS.**

476
477 **Section 9.4.1. Information for development in flood hazard areas.**

- 478
479 A. The site plan or construction documents for any development subject to the requirements of this
480 Article shall be drawn to scale and shall include, as applicable to the proposed development:
481
482 1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood
483 elevation(s), and ground elevations if necessary for review of the proposed development;
484
485 2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood
486 Insurance Study, they shall be established in accordance with § 9.4.2.(B) or (C) of this Article;
487
488 3. Where the parcel on which the proposed development will take place will have more than 50
489 lots or is larger than five acres and the base flood elevations are not included on the FIRM or in
490 the Flood Insurance Study, such elevations shall be established in accordance with § 9.4.2.(A) of
491 this Article;
492
493 4. Location of the proposed activity, and structures, and locations of existing buildings and
494 structures; in coastal high hazard areas, new buildings shall be located landward of the reach of
495 mean high tide;
496
497 5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation;
498
499 6. Where the placement of fill is proposed, the amount, type, and source of fill material;
500 compaction specifications; a description of the intended purpose of the fill areas; and evidence
501 that the proposed fill areas are the minimum necessary to achieve the intended purpose;
502
503 7. Delineation of the coastal construction control line or notation that the site is seaward of the
504 coastal construction control line, if applicable;
505
506 8. Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is

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507 approved by the Florida Department of Environmental Protection; and

508

509 9. Existing and proposed alignment of any proposed alteration of a watercourse.

510

511 B. The Floodplain Administrator is authorized to waive the submission of site plans, construction
512 documents, and other data that are required by this Article but that are not required to be prepared
513 by a registered design professional if it is found that the nature of the proposed development is such
514 that the review of such submissions is not necessary to ascertain compliance with this Article.

515

516 **Section 9.4.2. Information in flood hazard areas without base flood elevations (approximate Zone A).**

517

518 Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been
519 provided, the Floodplain Administrator shall:

520

521 A. Require the applicant to include base flood elevation data prepared in accordance with currently
522 accepted engineering practices.

523

524 B. Obtain, review, and provide to applicants base flood elevation and floodway data available from a
525 federal or state agency or other source or require the applicant to obtain and use base flood
526 elevation and floodway data available from a federal or state agency or other source.

527

528 C. Where base flood elevation and floodway data are not available from another source, where the
529 available data are deemed by the Floodplain Administrator to not reasonably reflect flooding
530 conditions, or where the available data are known to be scientifically or technically incorrect or
531 otherwise inadequate:

532

533 1. Require the applicant to include base flood elevation data prepared in accordance with
534 currently accepted engineering practices; or

535

536 2. Specify that the base flood elevation is two feet above the highest adjacent grade at the location
537 of the development, provided there is no evidence indicating flood depths have been or may be
538 greater than two feet; and

539

540 D. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA,
541 advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format
542 required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal
543 requirements and pay the processing fees.

544

545 **Section 9.4.3. Additional analyses and certifications.**

546

547 As applicable to the location and nature of the proposed development activity, and in addition to the
548 requirements of this section, the applicant shall have the following analyses signed and sealed by a
549 Florida licensed engineer for submission with the site plan and construction documents:

550

551 A. For development activities in a regulatory floodway, a floodway encroachment analysis that
552 demonstrates that the encroachment of the proposed development will not cause any increase in

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553 base flood elevations; where the applicant proposes to undertake development activities that do
554 increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in §
555 9.4.4. of this Article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with
556 the site plan and construction documents.
557

- 558 B. For development activities in a riverine flood hazard area for which base flood elevations are
559 included in the Flood Insurance Study or on the FIRM and floodways have not been designated,
560 hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed
561 development, when combined with all other existing and anticipated flood hazard area
562 encroachments, will not increase the base flood elevation more than one foot at any point within
563 the City of Cape Coral. This requirement does not apply in isolated flood hazard areas not connected
564 to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
565
- 566 C. For alteration of a watercourse, an engineering analysis prepared in accordance with standard
567 engineering practices which demonstrates that the flood-carrying capacity of the altered or
568 relocated portion of the watercourse will not be decreased, and certification that the altered
569 watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity;
570 the applicant shall submit the analysis to FEMA as specified in § 9.4.4. of this Article.
571
- 572 D. For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas
573 (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase
574 the potential for flood damage.
575

576 **Section 9.4.4. Submission of additional data.**

577
578 When additional hydrologic, hydraulic, or other engineering data, studies, and additional analyses are
579 submitted to support an application, the applicant has the right to seek a Letter of Map Change from
580 FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood
581 hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be
582 prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and
583 processing fees shall be the responsibility of the applicant.
584

585 **CHAPTER 5. INSPECTIONS.**

586
587 **Section 9.5.1. General.**

588
589 Development for which a floodplain development permit or approval is required shall be subject to
590 inspection.
591

592 **Section 9.5.2. Development other than buildings and structures.**

593
594 The Floodplain Administrator shall inspect all development to determine compliance with the
595 requirements of this Article and the conditions of issued floodplain development permits or approvals.
596

597 **Section 9.5.3. Buildings, structures and facilities exempt from the Florida Building Code.**

598

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599 The Floodplain Administrator shall inspect buildings, structures, and facilities exempt from the Florida
600 Building Code to determine compliance with the requirements of this Article and the conditions of
601 issued floodplain development permits or approvals.
602

603 **Section 9.5.4. Buildings, structures, and facilities exempt from the Florida Building Code, lowest floor**
604 **inspection.**

605
606 Upon placement of the lowest floor, including basement, and prior to further vertical construction, the
607 owner of a building, structure, or facility exempt from the Florida Building Code shall submit to the
608 Floodplain Administrator:

- 609
610 A. If a design flood elevation was used to determine the required elevation of the lowest floor, the
611 certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional
612 surveyor; or
613
614 B. If the elevation used to determine the required elevation of the lowest floor was determined in
615 accordance with § 9.4.2.(C)(2) of this Article, the documentation of height of the lowest floor above
616 highest adjacent grade, prepared by the owner.
617

618 **Section 9.5.5. Buildings, structures, and facilities exempt from the Florida Building Code, final**
619 **inspection.**

620
621 As part of the final inspection, the owner shall submit a final certification of elevation of the lowest floor
622 or final documentation of the height of the lowest floor above the highest adjacent grade; such
623 certifications and documentations shall be prepared as specified in § 9.5.4. of this Article.
624

625 **Section 9.5.6. Manufactured homes.**

626
627 The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood
628 hazard areas to determine compliance with the requirements of this Article and the conditions of the
629 issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest
630 floor shall be submitted.
631

632 **CHAPTER 6. VARIANCES AND APPEALS.**

633
634 **Section 9.6.1. Variances.**

635
636 The Cape Coral Hearing Examiner shall hear and decide on requests for requests for variances from the
637 strict application of this Article. Pursuant to F.S. § 553.73(5), the Cape Coral Hearing Examiner shall hear
638 and decide on requests for appeals and requests for variances from the strict application of the flood
639 resistant construction requirements of the Florida Building Code. This section does not apply to Section
640 3109 of the Florida Building Code, Building.
641

642 **Section 9.6.2. Appeals.**

643
644 The Cape Coral Hearing Examiner shall hear and decide appeals when it is alleged there is an error in any

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645 requirement, decision, or determination made by the Floodplain Administrator in the administration
646 and enforcement of this Article. Any person aggrieved by the decision of Cape Coral Hearing Examiner
647 may appeal such decision to the Cape Coral City Council, as provided by Article 2 of the Land
648 Development Code.

649

650 **Section 9.6.3. Limitations on authority to grant variances.**

651 The Cape Coral Hearing Examiner shall base his or her decisions on variances on technical justifications
652 submitted by applicants, the considerations for issuance in § 9.6.7. of this Article, the conditions of
653 issuance set forth in § 9.6.8. of this Article, and the comments and recommendations of the Floodplain
654 Administrator and the Building Official. The Cape Coral Hearing Examiner has the right to attach such
655 conditions as deemed necessary to further the purposes and objectives of this Article.

656

657 **Section 9.6.4. Restrictions in floodways.**

658

659 A variance shall not be issued for any proposed development in a floodway if any increase in base flood
660 elevations would result, as evidenced by the applicable analyses and certifications required in § 9.4.3. of
661 this Article.

662

663 **Section 9.6.5. Historic buildings.**

664

665 A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building
666 that is determined eligible for the exception to the flood resistant construction requirements of the
667 Florida Building Code, Existing Building, Chapter 11 Historic Buildings, upon a determination that the
668 proposed repair, improvement, or rehabilitation will not preclude the building's continued designation
669 as a historic building and the variance is the minimum necessary to preserve the historic character and
670 design of the building. If the proposed work precludes the building's continued designation as a historic
671 building, a variance shall not be granted and the building and any repair, improvement, and
672 rehabilitation shall be subject to the requirements of the Florida Building Code.

673

674 **Section 9.6.6. Functionally dependent uses.**

675

676 A variance is authorized to be issued for the construction or substantial improvement necessary for the
677 conduct of a functionally dependent use, as defined in this Article, provided the variance meets the
678 requirements of § 9.6.4., is the minimum necessary considering the flood hazard, and all due
679 consideration has been given to use of methods and materials that minimize flood damage during
680 occurrence of the base flood.

681

682 **Section 9.6.7. Considerations for issuance of variances.**

683

684 In reviewing requests for variances, the Cape Coral Hearing Examiner shall consider all technical
685 evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this Article,
686 and the following:

687

- 688 A. The danger that materials and debris may be swept onto other lands resulting in further injury or
689 damage;

690

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- 691 B. The danger to life and property due to flooding or erosion damage;
- 692
- 693 C. The susceptibility of the proposed development, including contents, to flood damage and the effect
- 694 of such damage on current and future owners;
- 695
- 696 D. The importance of the services provided by the proposed development to the City of Cape Coral;
- 697
- 698 E. The availability of alternate locations for the proposed development that are subject to lower risk of
- 699 flooding or erosion;
- 700
- 701 F. The compatibility of the proposed development with existing and anticipated development;
- 702
- 703 G. The relationship of the proposed development to the comprehensive plan and floodplain
- 704 management program for the area;
- 705
- 706 H. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- 707
- 708 I. The expected heights, velocity, duration, rate of rise, and debris and sediment transport of the
- 709 floodwaters and the effects of wave action, if applicable, expected at the site; and
- 710
- 711 J. The costs of providing governmental services during and after flood conditions including
- 712 maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water
- 713 systems, streets, and bridges.
- 714

Section 9.6.8. Conditions for issuance of variances.

Variances shall be issued only upon:

- 719 A. Submission by the applicant of a showing of good and sufficient cause that the unique
- 720 characteristics of the size, configuration, or topography of the site limit compliance with any
- 721 provision of this Article or the required elevation standards;
- 722
- 723 B. Determination by the Cape Coral Hearing Examiner that:
- 724
- 725 1. Failure to grant the variance would result in exceptional hardship due to the physical
- 726 characteristics of the land that render the lot undevelopable; increased costs to satisfy the
- 727 requirements, or inconvenience do not constitute hardship;
- 728
- 729 2. The granting of a variance will not result in increased flood heights, additional threats to public
- 730 safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the
- 731 public, or conflict with existing local laws and ordinances; and
- 732
- 733 3. The variance is the minimum necessary, considering the flood hazard, to afford relief;
- 734
- 735 C. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the
- 736 Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected

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737 parcel of land; and

738

739 D. If the request is for a variance to allow construction of the lowest floor of a new building or
740 substantial improvement of a building below the required elevation, a copy in the record of a
741 written notice from the Floodplain Administrator to the applicant for the variance, specifying the
742 difference between the base flood elevation and the proposed elevation of the lowest floor, stating
743 that the cost of federal flood insurance will be commensurate with the increased risk resulting from
744 the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and
745 stating that construction below the base flood elevation increases risks to life and property.

746

747 **Chapter 7. VIOLATIONS.**

748

749 **Section 9.7.1. Violations.**

750

751 Any development that is not within the scope of the Florida Building Code but that is regulated by this
752 Article that is performed without an issued permit, that is in conflict with an issued permit or that does
753 not fully comply with this Article, shall be deemed a violation of this Article. A building or structure
754 without the documentation of elevation of the lowest floor, other required design certifications, or
755 other evidence of compliance required by this Article or the Florida Building Code is presumed to be a
756 violation until such time as that documentation is provided.

757

758 **Section 9.7.2. Authority.**

759

760 For development that is not within the scope of the Florida Building Code but regulated by this Article
761 and determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation
762 or stop work orders to owners of the property involved, to the owner's agent, or to the person or
763 persons performing the work.

764

765 **Section 9.7.3. Unlawful continuance.**

766

767 Any person who shall continue any work after having been served with a notice of violation or a stop
768 work order, except such work as that person is directed to perform to remove or remedy a violation or
769 unsafe condition, shall be subject to penalties as prescribed by law.

770

771 **CHAPTER 8. FLOOD RESISTANT DEVELOPMENT**

772

773 **Section 9.8.1. Design and construction of buildings, structures, and facilities exempt from the Florida
774 Building Code.**

775

776 Pursuant to § 9.3.3. of this Article, buildings, structures, and facilities that are exempt from the Florida
777 Building Code, including substantial improvement or repair of substantial damage of such buildings,
778 structures, and facilities, shall be designed and constructed in accordance with the flood load and flood
779 resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that
780 are not walled and roofed buildings shall comply with the requirements of § 9.8.14. of this Article.

781

782 **Section 9.8.2. Buildings and structures seaward of the coastal construction control line.**

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783
784 If extending, in whole or in part, seaward of the coastal construction control line and also, in whole or in
785 part, in a flood hazard area:

- 786
787 A. Buildings and structures shall be designed and constructed to comply with the more restrictive
788 applicable requirements of the Florida Building Code, Building Section 3109 and Section 1612 or
789 Florida Building Code, Residential Section R322; and
790
791 B. Minor structures and non-habitable major structures as defined in F.S. § 161.54, shall be designed and
792 constructed to comply with the intent and applicable provisions of this Article and ASCE 24.
793

794 **Section 9.8.3. Subdivision Minimum requirements.**

795
796 Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be
797 reviewed to determine that:

- 798
799 A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe
800 from flooding;
801
802 B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are
803 located and constructed to minimize or eliminate flood damage; and
804
805 C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate
806 drainage paths shall be provided to guide floodwaters around and away from proposed structures.
807

808 **Section 9.8.4. Subdivision plats.**

809
810 Where any portion of proposed subdivisions lies within a flood hazard area, the following shall be
811 required:

- 812
813 A. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations,
814 as appropriate, shall be shown on preliminary plats;
815
816 B. Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are
817 not included on the FIRM, the base flood elevations determined in accordance with § 9.4.2. of this
818 Article; and
819
820 C. Compliance with the site improvement and utilities requirements of § 9.8.5., 9.8.6., 9.8.7., 9.8.8.,
821 9.8.9., and 9.8.10. of this Article.
822

823 **Section 9.8.5. Minimum requirements for site improvements, utilities, and limitations.**

824
825 All proposed new development shall be reviewed to determine that:

- 826
827 A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe
828 from flooding;

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829
830 B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are
831 located and constructed to minimize or eliminate flood damage; and
832

833 C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate
834 drainage paths shall be provided to guide floodwaters around and away from proposed structures.
835

836 **Section 9.8.6. Sanitary sewage facilities.**
837

838 All new and replacement sanitary sewage facilities, private sewage treatment plants (including all
839 pumping stations and collector systems), and on-site waste disposal systems shall be designed in
840 accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C.
841 and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge
842 from the facilities into flood waters, and impairment of the facilities and systems.
843

844 **Section 9.8.7. Water supply facilities.**
845

846 All new and replacement water supply facilities shall be designed in accordance with the water well
847 construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate
848 infiltration of floodwaters into the systems.
849

850 **Section 9.8.8. Limitations on sites in regulatory floodways.**
851

852 No development, including site improvements and land disturbing activity involving fill or regrading shall
853 be authorized in the regulatory floodway unless the floodway encroachment analysis required in § 9.4.3.
854 of this Article demonstrates that the proposed development or land disturbing activity will not result in
855 any increase in the base flood elevation.
856

857 **Section 9.8.9. Limitations on placement of fill.**
858

859 Subject to the limitations of this Article, fill shall be designed to be stable under conditions of flooding
860 including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against
861 flood-related erosion and scour. In addition to these requirements, if intended to support buildings and
862 structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.
863

864 **Section 9.8.10. Limitations on sites in coastal high hazard areas (Zone V).**
865

866 In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such
867 alteration is approved by the Florida Department of Environmental Protection and only if the engineering
868 analysis required by § 9.4.3.(D) of this Article demonstrates that the proposed alteration | will not increase
869 the potential for flood damage. Construction or restoration of dunes under or around elevated buildings
870 and structures shall comply with § 9.8.14.(H) of this Article.
871

872 **Section 9.8.11. Manufactured homes.**
873

874 A. General. All manufactured homes installed in flood hazard areas shall be installed by an installer that

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875 is licensed pursuant to F.S. § 320.8249, and shall comply with the requirements of Chapter 15C-1,
876 F.A.C. and the requirements of this Article. If located seaward of the coastal construction control line,
877 all manufactured homes shall comply with the more restrictive of the applicable requirements.
878

879 B. Foundations. All new manufactured homes and replacement manufactured homes installed in flood
880 hazard areas shall be installed on permanent, reinforced foundations that:

881
882 1. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance
883 with the foundation requirements of the Florida Building Code, Residential Section R322.2 and
884 this Article; and

885
886 2. In coastal high hazard areas (Zone V), are designed in accordance with the foundation
887 requirements of the Florida Building Code, Residential Section R322.3 and this Article.
888

889 C. Anchoring. All new manufactured homes and replacement manufactured homes shall be installed
890 using methods and practices which minimize flood damage and shall be securely anchored to an
891 adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods
892 of anchoring include use of over-the-top or frame ties to ground anchors. This anchoring requirement
893 is in addition to applicable state and local anchoring requirements for wind resistance.
894

895 D. Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply
896 with one of the following requirements, as applicable:

897
898 1. General elevation requirement. Unless subject to the requirements of § 9.8.11.D.2. of this Article,
899 all manufactured homes that are placed, replaced, or substantially improved on sites: (a) outside
900 of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision;
901 (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing
902 manufactured home park or subdivision upon which a manufactured home has incurred
903 substantial damage as the result of a flood, shall be elevated such that the bottom of the frame
904 is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building
905 Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V);
906

907 2. Elevation requirement for certain existing manufactured home parks and subdivisions.
908 Manufactured homes that are not subject to § 9.8.11.D.1. of this Article, including manufactured
909 homes that are placed, replaced, or substantially improved on sites located in an existing
910 manufactured home park or subdivision, unless on a site where substantial damage as result of
911 flooding has occurred, shall be elevated such that either the:

912
913 a. Bottom of the frame of the manufactured home is at or above the elevation required, as
914 applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2
915 (Zone A) or Section R322.3 (Zone V); or

916
917 b. Bottom of the frame is supported by reinforced piers or other foundation elements of at least
918 equivalent strength that are not less than 36 inches in height above grade.
919

920 E. Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements

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921 of the Florida Building Code, Residential Section R322 for such enclosed areas, as applicable to the
922 flood hazard area.

923
924 F. Utility equipment. Utility equipment that serves manufactured homes, including electric, heating,
925 ventilation, plumbing, air conditioning equipment, and other service facilities shall comply with the
926 requirements of the Florida Building Code, Residential Section R322, as applicable to the flood hazard
927 area.

928
929 **Section 9.8.12. Recreational vehicles and park trailers.**

930
931 A. Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas
932 shall:

- 933
934 1. Be on the site for fewer than 180 consecutive days; and
935
936 2. Be fully licensed and ready for highway use, which means the recreational vehicle or park model
937 is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and
938 security devices, and has no permanent attachments such as additions, rooms, stairs, decks, and
939 porches.

940
941 B. Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in §
942 9.8.12.A. of this Article for temporary placement shall meet the requirements of § 9.8.11. of this
943 Article for manufactured homes.

944
945 **Section 9.8.13. Tanks.**

946
947 A. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation,
948 collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions
949 of the design flood, including the effects of buoyancy assuming the tank is empty.

950
951 B. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements
952 of § 9.8.13.C. of this Article shall:

- 953
954 1. Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the
955 tanks are anchored or otherwise designed and constructed to prevent flotation, collapse, or
956 lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the
957 design flood, including the effects of buoyancy assuming the tank is empty and the effects of
958 flood-borne debris; and

959
960 2. Not be permitted in coastal high hazard areas (Zone V).

961
962 C. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and
963 elevated to or above the design flood elevation on a supporting structure that is designed to prevent
964 flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting
965 structures shall meet the foundation requirements of the applicable flood hazard area.

966

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- 967 D. Tank inlets and vents. Tank inlets, fill openings, outlets, and vents shall be:
968
969 1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of
970 floodwater or outflow of the contents of the tanks during conditions of the design flood; and
971
972 2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads,
973 including the effects of buoyancy, during conditions of the design flood.
974

975 **Section 9.8.14. Other development.**
976

- 977 A. General requirements for other development. All development, including man-made changes to
978 improved or unimproved real estate for which specific provisions are not specified in this Article or
979 the Florida Building Code, shall:
980
981 1. Be located and constructed to minimize flood damage;
982
983 2. Meet the limitations of § 9.8.8. of this Article if located in a regulated floodway;
984
985 3. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads,
986 including the effects of buoyancy, during conditions of the design flood;
987
988 4. Be constructed of flood damage- resistant materials; and
989
990 5. Have mechanical, plumbing, and electrical systems above the design flood elevation, except that
991 minimum electric service required to address life safety and electric code requirements is
992 permitted below the design flood elevation provided it conforms to the provisions of the electrical
993 part of building code for wet locations.
994
995 B. Fences in regulated floodways. Fences in regulated floodways that have the potential to block the
996 passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of
997 § 9.8.8. of this Article.
998
999 C. Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and sidewalks and
1000 driveways that involve the placement of fill in regulated floodways shall meet the limitations of §
1001 9.8.8. of this Article.
1002
1003 D. Roads and watercourse crossings in regulated floodways. Roads and watercourse crossings, including
1004 roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel
1005 from one side of a watercourse to the other side, that encroach into regulated floodways, shall meet
1006 the limitations of § 9.8.8. of this Article. Alteration of a watercourse that is part of a road or
1007 watercourse crossing shall meet the requirements of § 9.4.3.C. of this Article.
1008
1009 E. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios, and similar
1010 nonstructural uses in coastal high hazard areas (Zone V).
1011
1012 In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks,

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1013 walkways, patios, and similar nonstructural uses are permitted beneath or adjacent to buildings and
1014 structures provided the concrete slabs are designed and constructed to be:

- 1015
- 1016 1. Structurally independent of the foundation system of the building or structure;
 - 1017
 - 1018 2. Frangible and not reinforced, to minimize debris during flooding that is capable of causing
 - 1019 significant damage to any structure; and
 - 1020
 - 1021 3. Have a maximum slab thickness of not more than four inches.
 - 1022

1023 F. Decks and patios in coastal high hazard areas (Zone V). In addition to the requirements of the Florida
1024 Building Code, in coastal high hazard areas decks and patios shall be located, designed, and
1025 constructed in compliance with the following:

- 1026
- 1027 1. A deck that is structurally attached to a building or structure shall have the bottom of the lowest
1028 horizontal structural member at or above the design flood elevation and any supporting members
1029 that extend below the design flood elevation shall comply with the foundation requirements that
1030 apply to the building or structure, which shall be designed to accommodate any increased loads
1031 resulting from the attached deck;
 - 1032
 - 1033 2. A deck or patio that is located below the design flood elevation shall be structurally independent
1034 from buildings or structures and their foundation systems and shall be designed and constructed
1035 either to remain intact and in place during design flood conditions or to break apart into small
1036 pieces to minimize debris during flooding that is capable of causing structural damage to the
1037 building or structure or to adjacent buildings and structures;
 - 1038
 - 1039 3. A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with
1040 more than the minimum amount of fill necessary for site drainage shall not be approved unless
1041 an analysis prepared by a qualified registered design professional demonstrates no harmful
1042 diversion of floodwaters or wave runup and wave reflection that would increase damage to the
1043 building or structure or to adjacent buildings and structures; and
 - 1044
 - 1045 4. A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on
1046 nonstructural fill material that is similar to and compatible with local soils and is the minimum
1047 amount necessary for site drainage may be approved without requiring analysis of the impact on
1048 diversion of floodwaters or wave runup and wave reflection.
 - 1049

1050 G. Other development in coastal high hazard areas (Zone V).

1051
1052 In coastal high hazard areas, development activities other than buildings and structures shall be
1053 permitted only if also authorized by the appropriate federal, state, or local authority; if located outside
1054 the footprint of and not structurally attached to buildings and structures; and if analyses prepared by
1055 qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave
1056 runup and wave reflection that would increase damage to adjacent buildings and structures. Such
1057 other development activities include but are not limited to:

1058

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- 1059 1. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
1060
1061 2. Solid fences, privacy walls, and fences prone to trapping debris, unless designed and constructed
1062 to fail under flood conditions less than the design flood or otherwise function to avoid obstruction
1063 of floodwaters; and
1064
1065 3. On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or
1066 mound systems.
1067
1068 H. Nonstructural fill in coastal high hazard areas (Zone V).
1069
1070 1. Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for
1071 landscaping and for drainage purposes under and around buildings.
1072
1073 2. Nonstructural fill with finished slopes that are steeper than one unit vertical to five units
1074 horizontal shall be permitted only if an analysis prepared by a qualified registered design
1075 professional demonstrates no harmful diversion of floodwaters or wave runup and wave
1076 reflection that would increase damage to adjacent buildings and structures.
1077
1078 3. Where authorized by the Florida Department of Environmental Protection or applicable local
1079 approval, sand dune construction and restoration of sand dunes under or around elevated
1080 buildings are permitted without additional engineering analysis or certification of the diversion of
1081 floodwater or wave runup and wave reflection if the scale and location of the dune work is
1082 consistent with local beach-dune morphology and the vertical clearance is maintained between
1083 the top of the sand dune and the lowest horizontal structural member of the building.
1084

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93 **CHAPTER 1: ADMINISTRATION**

94

95 **Section 9.1.1. Title.**

96

97 These regulations shall be known as the Floodplain Management Ordinance of the City of Cape Coral.

98

99 **Section 9.1.2. Scope.**

100

101 The provisions of this Article shall apply to all development that is wholly within or partially within any
102 flood hazard area, including the subdivision of land; filling, grading, other site improvements, and utility
103 installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair,
104 relocation, or demolition of buildings, structures, and facilities that are exempt from the Florida Building
105 Code; placement, installation, or replacement of manufactured homes and manufactured buildings;
106 installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools;
107 and any other action or activity defined as development.

108

109 **Section 9.1.3. Purpose and Intent.**

110

111 The purposes of this Article and the flood load and flood resistant construction requirements of the
112 Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and
113 general welfare and to minimize public and private losses due to flooding through regulation of
114 development in flood hazard areas to:

115

116 A. Minimize unnecessary disruption of commerce, access, and public service during times of flooding;

117

118 B. Require the use of appropriate construction practices in order to prevent or minimize future flood
119 damage;

120

121 C. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of
122 equipment or materials, and other development which may increase flood damage or erosion
123 potential;

124

125 D. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact
126 of development on the natural and beneficial functions of the floodplain;

127

128 E. Minimize damage to public and private facilities and utilities;

129

130 F. Help maintain a stable tax base by providing for the sound use and development of flood hazard
131 areas;

132

133 G. Minimize the need for future expenditure of public funds for flood control projects and response to
134 and recovery from flood events; and

135

136 H. Meet the requirements of the National Flood Insurance Program for community participation as set
137 forth in the Title 44 Code of Federal Regulations, Section 59.22.

138

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139 **Section 9.1.4. Coordination with the Florida Building Code.**

140
141 This Article is intended to be administered and enforced in conjunction with the Florida Building Code.
142 Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building
143 Code.
144

145 **Section 9.1.5. Warning.**

146
147 The degree of flood protection required by this Article and the Florida Building Code is considered the
148 minimum reasonable for regulatory purposes and is based on scientific and engineering considerations.
149 Larger floods can and will occur. Flood heights may be increased by man- made or natural causes. This
150 Article does not imply that land outside of mapped special flood hazard areas or that uses permitted
151 within such flood hazard areas will be free from flooding or flood damage. The flood hazard areas and
152 base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps
153 and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the
154 Federal Emergency Management Agency, requiring this city to revise these regulations to remain eligible
155 for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or
156 future use is implied or expressed by compliance with this Article.
157

158 **Section 9.1.6. Disclaimer of liability.**

159
160 This Article shall not create liability on the part of the City of Cape Coral or by any officer or employee
161 thereof for any flood damage that results from reliance on this Article or any administrative decision
162 lawfully made thereunder.
163

164 **Section 9.1.7. Applicability.**

- 165
166 A. Where there is a conflict between a general requirement and a specific requirement, the specific
167 requirement shall be applicable.
168
169 B. This Article shall apply to all development in flood hazard areas within the City of Cape Coral, as
170 established in § 9.1.8. of this Article.
171

172 **Section 9.1.8. Basis for establishing flood hazard areas.**

173
174 The Flood Insurance Study for Lee County, FL and Incorporated Areas dated August 28, 2008, the
175 accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions are
176 adopted by reference as a part of this Article and shall serve as the minimum basis for establishing flood
177 hazard areas. Studies and maps that establish flood hazard areas are on file at the City Clerk's office, City
178 of Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.
179

180 **Section 9.1.9. Submission of additional data to establish flood hazard areas.**

181
182 To establish flood hazard areas and base flood elevations pursuant to § 9.1.8 of this Article, the
183 Floodplain Administrator may require submission of additional data. Additional data may be required
184 where field surveyed topography prepared by a Florida licensed professional surveyor or digital

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185 topography accepted by the city indicates that ground elevations:

186

187 A. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood
188 hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the
189 requirements of this Article and, as applicable, the requirements of the Florida Building Code: or

190

191 B. Are above the closest applicable base flood elevation, the area shall be regulated as special flood
192 hazard area unless the applicant obtains a Letter of Map Change that removes the area from the
193 special flood hazard area.

194

195 **Section 9.1.10. Other laws.**

196

197 The provisions of this Article shall not be deemed to nullify any provisions of local state or federal law.

198

199 **Section 9.1.11. Abrogation and greater restrictions.**

200

201 This Article supersedes any regulation in effect for management of development in flood hazard areas.
202 However, it is not intended to repeal or abrogate any existing regulations, including land development
203 regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In
204 the event of a conflict between this Article and any other regulation, the more restrictive shall govern.
205 This Article shall not impair any deed restriction, covenant, or easement but any land that is subject to
206 such interests shall also be governed by this Article.

207

208 **Section 9.1.12. Interpretation.**

209

210 In the interpretation and application of this Article, all provisions shall be:

211

212 A. Considered as minimum requirements;

213

214 B. Liberally construed in favor of the governing body; and

215

216 C. Deemed neither to limit nor repeal any other powers granted under state statutes.

217

218 **CHAPTER 2. DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR.**

219

220 **Section 9.2.1. Designation.**

221

222 The Director of the Department of Community Development is designated as the Floodplain
223 Administrator. The Floodplain Administrator may delegate performance of certain duties to other
224 employees.

225

226 **Section 9.2.2. General.**

227

228 The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this
229 Article. The Floodplain Administrator shall have the authority to render interpretations of this Article
230 consistent with the intent and purpose of this Article and may establish policies and procedures in order

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231 to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have
232 the effect of waiving requirements specifically provided in this Article without the granting of a variance
233 pursuant to § 9.6.1. of this Article.
234

235 **Section 9.2.3. Applications and permits.**
236

237 The Floodplain Administrator, in coordination with other pertinent offices of the city, shall:
238

- 239 A. Review applications and plans to determine whether proposed new development will be located in
240 flood hazard areas.
- 241
- 242 B. Review applications for modification of any existing development in flood hazard areas for
243 compliance with the requirements of this Article.
244
- 245 C. Interpret flood hazard area boundaries where such interpretation is necessary to determine the
246 exact location of boundaries; a person contesting the determination shall have the opportunity to
247 appeal the interpretation.
248
- 249 D. Provide available flood elevation and flood hazard information.
250
- 251 E. Determine whether additional flood hazard data shall be obtained from other sources or shall be
252 developed by an applicant.
253
- 254 F. Review applications to determine whether proposed development will be reasonably safe from
255 flooding.
256
- 257 G. Issue floodplain development permits or approvals for development other than buildings and
258 structures that are subject to the Florida Building Code, including buildings, structures, and facilities
259 exempt from the Florida Building Code, when compliance with this Article is demonstrated, or
260 disapprove the same in the event of noncompliance.
261
- 262 H. Coordinate with and provide comments to the Building Official to assure that applications, plan
263 reviews, and inspections for buildings and structures in flood hazard areas comply with the
264 applicable provisions of this Article.
265

266 **Section 9.2.4. Substantial improvement and substantial damage determinations.**
267

268 For applications for building permits to improve buildings and structures, including alterations,
269 movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations,
270 renovations, substantial improvements, repairs of substantial damage, and any other improvement of or
271 work on such buildings and structures, the Floodplain Administrator, in coordination with the Building
272 Official, shall:

- 273
- 274 A. Estimate the market value or require the applicant to obtain an appraisal of the market value
275 prepared by a qualified independent appraiser, of the building or structure before the start of
276 construction of the proposed work; in the case of repair, the market value of the building or

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277 structure shall be the market value before the damage occurred and before any repairs are made.

278

279 B. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-
280 damaged condition, or the combined costs of improvements and repairs, if applicable, to the market
281 value of the building or structure.

282

283 C. Determine and document whether the proposed work constitutes substantial improvement or
284 repair of substantial damage; the determination requires evaluation of previous permits issued for
285 improvements and repairs as specified in the definition of substantial improvement.

286

287 D. Notify the applicant if it is determined that the work constitutes substantial improvement or repair
288 of substantial damage and that compliance with the flood resistant construction requirements of
289 the Florida Building Code and this Article is required.

290

291 **Section 9.2.5. Modifications of the strict application of the requirements of the Florida Building Code.**

292

293 The Floodplain Administrator shall review requests submitted to the Building Official that seek approval
294 to modify the strict application of the flood load and flood resistant construction requirements of the
295 Florida Building Code to determine whether such requests require the granting of a variance pursuant to
296 § 9.6.1. of this Article.

297

298 **Section 9.2.6. Notices and orders.**

299

300 The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all
301 necessary notices or orders to ensure compliance with this Article.

302

303 **Section 9.2.7. Inspections.**

304

305 The Floodplain Administrator shall make the required inspections as specified in this Article for
306 development that is not subject to the Florida Building Code, including buildings, structures, and
307 facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard
308 areas to determine if development is undertaken without issuance of a permit.

309

310 **Section 9.2.8. Other duties of the Floodplain Administrator.**

311

312 The Floodplain Administrator shall have other duties, including:

313

314 A. Establish, in coordination with the Building Official, procedures for administering and documenting
315 determinations of substantial improvement and substantial damage made pursuant to § 9.2.4. of
316 this Article.

317

318 B. Require that applicants proposing alteration of a watercourse notify adjacent communities and the
319 Florida Division of Emergency Management, State Floodplain Management Office, and submit
320 copies of such notifications to the Federal Emergency Management Agency (FEMA).

321

322 C. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit

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323 applications to submit to FEMA the data and information necessary to maintain the Flood Insurance
324 Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or
325 floodway designations; such submissions shall be made within six months of such data becoming
326 available.
327

328 D. Review required design certifications and documentation of elevations specified by this Article and
329 the Florida Building Code and this Article to determine that such certifications and documentations
330 are complete.
331

332 E. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of
333 Cape Coral are modified.
334

335 F. Advise applicants for new buildings and structures, including substantial improvements, that are
336 located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier
337 Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591)
338 that federal flood insurance is not available on such construction; areas subject to this limitation are
339 identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise
340 Protected Areas."
341

342 **Section 9.2.9 Floodplain management records.**
343

344 Regardless of any limitation on the period required for retention of public records, the Floodplain
345 Administrator shall maintain and permanently keep and make available for public inspection all records
346 that are necessary for the administration of this Article and the flood resistant construction
347 requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Change;
348 records of issuance of permits and denial of permits; determinations of whether proposed work
349 constitutes substantial improvement or repair of substantial damage; required design certifications and
350 documentation of elevations specified by the Florida Building Code and this Article; notifications to
351 adjacent communities, FEMA and the state related to alterations of watercourses; assurances that the
352 flood carrying capacity of altered watercourses will be maintained; documentation related to appeals
353 and variances, including justification for issuance or denial; and records of enforcement actions taken
354 pursuant to this Article and the flood resistant construction requirements of the Florida Building Code.
355 These records shall be available for public inspection at the City Clerk's office, City of Cape Coral City
356 Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.
357

358 **CHAPTER 3. PERMITS**
359

360 **Section 9.3.1. Permits required.**
361

362 Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any
363 development activity within the scope of this Article, including buildings, structures, and facilities
364 exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area
365 shall first make application to the Floodplain Administrator and the Building Official, if applicable, and
366 shall obtain the required permit(s) and approvals). No such permit or approval shall be issued until
367 compliance with the requirements of this Article and all other applicable codes and regulations has been
368 satisfied.

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Section 9.3.2. Floodplain development permits or approvals.

Floodplain development permits or approvals shall be issued pursuant to this Article for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures, and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

Section 9.3.3. Buildings, structures, and facilities exempt from the Florida Building Code.

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures, and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this Article:

- A. Nonresidential farm buildings on farms, as provided in section F.S. § 604.50.
- B. Temporary buildings or sheds used exclusively for construction purposes.
- C. Mobile or modular structures used as temporary offices.
- D. Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.
- E. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida, As used in this paragraph, the term **CHICKEE** means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- F. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- G. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- H. Structures identified in section F.S. § 553.73(10)(k) are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.

Section 9.3.4. Application for a permit or approval.

To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the city. The information provided shall:

- A. Identify and describe the development to be covered by the permit or approval.

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- 415
416 B. Describe the land on which the proposed development is to be conducted by legal description,
417 street address, or similar description that will readily identify and definitively locate the site.
418
419 C. Indicate the use and occupancy for which the proposed development is intended.
420
421 D. Be accompanied by a site plan or construction documents as specified in § 9.4 of this Article.
422
423 E. State the valuation of the proposed work.
424
425 F. Be signed by the applicant or the applicant's authorized agent.
426
427 G. Give such other data and information as required by the Floodplain Administrator.
428

429 **Section 9.3.5. Validity of permit or approval.**

430
431 The issuance of a floodplain development permit or approval pursuant to this Article shall not be
432 construed to be a permit for, or approval of, any violation of this Article, the Florida Building Codes, or
433 any other regulation of the City of Cape Coral. The issuance of permits based on submitted applications,
434 construction documents, and information shall not prevent the Floodplain Administrator from requiring
435 the correction of errors and omissions.
436

437 **Section 9.3.6. Expiration.**

438
439 A floodplain development permit or approval shall become invalid unless the work authorized by such
440 permit is commenced within 180 days after its issuance, or if the work authorized is suspended or
441 abandoned for a period of 180 days after the work commences. Extensions for periods of not more than
442 180 days each shall be requested in writing and justifiable cause shall be demonstrated.
443

444 **Section 9.3.7. Suspension or revocation.**

445
446 The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or
447 approval if the permit was issued in error; on the basis of incorrect, inaccurate, or incomplete
448 information; or in violation of this Article or any other regulation or requirement of the City of Cape
449 Coral.
450

451 **Section 9.3.8. Other permits required.**

452
453 Floodplain development permits and building permits shall include a condition that all other applicable
454 state or federal permits be obtained before commencement of the permitted development, including
455 the following:
456

- 457 A. The South Florida Water Management District; F.S. § 373.036.
458
459 B. Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065
460 and Chapter 64E-6, F.A.C.

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- 461
462 C. Florida Department of Environmental Protection for construction, reconstruction, changes, or
463 physical activities for shore protection or other activities seaward of the coastal construction control
464 line; F.S. § 161.141.
465
466 D. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit;
467 F.S. § 161.055.
468
469 E. Florida Department of Environmental Protection for activities that affect wetlands and alter surface
470 water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water
471 Act.
472
473 F. Federal permits and approvals.
474

475 **CHAPTER 4. SITE PLANS AND CONSTRUCTION DOCUMENTS.**

476
477 **Section 9.4.1. Information for development in flood hazard areas.**

- 478
479 A. The site plan or construction documents for any development subject to the requirements of this
480 Article shall be drawn to scale and shall include, as applicable to the proposed development:
481
482 1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood
483 elevation(s), and ground elevations if necessary for review of the proposed development;
484
485 2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood
486 Insurance Study, they shall be established in accordance with § 9.4.2.(B) or (C) of this Article;
487
488 3. Where the parcel on which the proposed development will take place will have more than 50
489 lots or is larger than five acres and the base flood elevations are not included on the FIRM or in
490 the Flood Insurance Study, such elevations shall be established in accordance with § 9.4.2.(A) of
491 this Article;
492
493 4. Location of the proposed activity, and structures, and locations of existing buildings and
494 structures; in coastal high hazard areas, new buildings shall be located landward of the reach of
495 mean high tide;
496
497 5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation;
498
499 6. Where the placement of fill is proposed, the amount, type, and source of fill material;
500 compaction specifications; a description of the intended purpose of the fill areas; and evidence
501 that the proposed fill areas are the minimum necessary to achieve the intended purpose;
502
503 7. Delineation of the coastal construction control line or notation that the site is seaward of the
504 coastal construction control line, if applicable;
505
506 8. Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is

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507 approved by the Florida Department of Environmental Protection; and

508

509 9. Existing and proposed alignment of any proposed alteration of a watercourse.

510

511 B. The Floodplain Administrator is authorized to waive the submission of site plans, construction
512 documents, and other data that are required by this Article but that are not required to be prepared
513 by a registered design professional if it is found that the nature of the proposed development is such
514 that the review of such submissions is not necessary to ascertain compliance with this Article.

515

516 **Section 9.4.2. Information in flood hazard areas without base flood elevations (approximate Zone A).**

517

518 Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been
519 provided, the Floodplain Administrator shall:

520

521 A. Require the applicant to include base flood elevation data prepared in accordance with currently
522 accepted engineering practices.

523

524 B. Obtain, review, and provide to applicants base flood elevation and floodway data available from a
525 federal or state agency or other source or require the applicant to obtain and use base flood
526 elevation and floodway data available from a federal or state agency or other source.

527

528 C. Where base flood elevation and floodway data are not available from another source, where the
529 available data are deemed by the Floodplain Administrator to not reasonably reflect flooding
530 conditions, or where the available data are known to be scientifically or technically incorrect or
531 otherwise inadequate:

532

533 1. Require the applicant to include base flood elevation data prepared in accordance with
534 currently accepted engineering practices; or

535

536 2. Specify that the base flood elevation is two feet above the highest adjacent grade at the location
537 of the development, provided there is no evidence indicating flood depths have been or may be
538 greater than two feet; and

539

540 D. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA,
541 advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format
542 required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal
543 requirements and pay the processing fees.

544

545 **Section 9.4.3. Additional analyses and certifications.**

546

547 As applicable to the location and nature of the proposed development activity, and in addition to the
548 requirements of this section, the applicant shall have the following analyses signed and sealed by a
549 Florida licensed engineer for submission with the site plan and construction documents:

550

551 A. For development activities in a regulatory floodway, a floodway encroachment analysis that
552 demonstrates that the encroachment of the proposed development will not cause any increase in

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553 base flood elevations; where the applicant proposes to undertake development activities that do
554 increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in §
555 9.4.4. of this Article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with
556 the site plan and construction documents.
557

- 558 B. For development activities in a riverine flood hazard area for which base flood elevations are
559 included in the Flood Insurance Study or on the FIRM and floodways have not been designated,
560 hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed
561 development, when combined with all other existing and anticipated flood hazard area
562 encroachments, will not increase the base flood elevation more than one foot at any point within
563 the City of Cape Coral. This requirement does not apply in isolated flood hazard areas not connected
564 to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
565
- 566 C. For alteration of a watercourse, an engineering analysis prepared in accordance with standard
567 engineering practices which demonstrates that the flood-carrying capacity of the altered or
568 relocated portion of the watercourse will not be decreased, and certification that the altered
569 watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity;
570 the applicant shall submit the analysis to FEMA as specified in § 9.4.4. of this Article.
571
- 572 D. For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas
573 (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase
574 the potential for flood damage.
575

576 **Section 9.4.4. Submission of additional data.**
577

578 When additional hydrologic, hydraulic, or other engineering data, studies, and additional analyses are
579 submitted to support an application, the applicant has the right to seek a Letter of Map Change from
580 FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood
581 hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be
582 prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and
583 processing fees shall be the responsibility of the applicant.
584

585 **CHAPTER 5. INSPECTIONS.**
586

587 **Section 9.5.1. General.**
588

589 Development for which a floodplain development permit or approval is required shall be subject to
590 inspection.
591

592 **Section 9.5.2. Development other than buildings and structures.**
593

594 The Floodplain Administrator shall inspect all development to determine compliance with the
595 requirements of this Article and the conditions of issued floodplain development permits or approvals.
596

597 **Section 9.5.3. Buildings, structures and facilities exempt from the Florida Building Code.**
598

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599 The Floodplain Administrator shall inspect buildings, structures, and facilities exempt from the Florida
600 Building Code to determine compliance with the requirements of this Article and the conditions of
601 issued floodplain development permits or approvals.
602

603 **Section 9.5.4. Buildings, structures, and facilities exempt from the Florida Building Code, lowest floor**
604 **inspection.**

605
606 Upon placement of the lowest floor, including basement, and prior to further vertical construction, the
607 owner of a building, structure, or facility exempt from the Florida Building Code shall submit to the
608 Floodplain Administrator:

- 609
610 A. If a design flood elevation was used to determine the required elevation of the lowest floor, the
611 certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional
612 surveyor; or
613
614 B. If the elevation used to determine the required elevation of the lowest floor was determined in
615 accordance with § 9.4.2.(C)(2) of this Article, the documentation of height of the lowest floor above
616 highest adjacent grade, prepared by the owner.
617

618 **Section 9.5.5. Buildings, structures, and facilities exempt from the Florida Building Code, final**
619 **inspection.**

620
621 As part of the final inspection, the owner shall submit a final certification of elevation of the lowest floor
622 or final documentation of the height of the lowest floor above the highest adjacent grade; such
623 certifications and documentations shall be prepared as specified in § 9.5.4. of this Article.
624

625 **Section 9.5.6. Manufactured homes.**

626
627 The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood
628 hazard areas to determine compliance with the requirements of this Article and the conditions of the
629 issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest
630 floor shall be submitted.
631

632 **CHAPTER 6. VARIANCES AND APPEALS.**

633
634 **Section 9.6.1. Variances.**

635
636 The Cape Coral Hearing Examiner shall hear and decide on requests for requests for variances from the
637 strict application of this Article. Pursuant to F.S. § 553.73(5), the Cape Coral Hearing Examiner shall hear
638 and decide on requests for appeals and requests for variances from the strict application of the flood
639 resistant construction requirements of the Florida Building Code. This section does not apply to Section
640 3109 of the Florida Building Code, Building.
641

642 **Section 9.6.2. Appeals.**

643
644 The Cape Coral Hearing Examiner shall hear and decide appeals when it is alleged there is an error in any

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645 requirement, decision, or determination made by the Floodplain Administrator in the administration
646 and enforcement of this Article. Any person aggrieved by the decision of Cape Coral Hearing Examiner
647 may appeal such decision to the Cape Coral City Council, as provided by Article 2 of the Land
648 Development Code.

649

650 **Section 9.6.3. Limitations on authority to grant variances.**

651 The Cape Coral Hearing Examiner shall base his or her decisions on variances on technical justifications
652 submitted by applicants, the considerations for issuance in § 9.6.7. of this Article, the conditions of
653 issuance set forth in § 9.6.8. of this Article, and the comments and recommendations of the Floodplain
654 Administrator and the Building Official. The Cape Coral Hearing Examiner has the right to attach such
655 conditions as deemed necessary to further the purposes and objectives of this Article.

656

657 **Section 9.6.4. Restrictions in floodways.**

658

659 A variance shall not be issued for any proposed development in a floodway if any increase in base flood
660 elevations would result, as evidenced by the applicable analyses and certifications required in § 9.4.3. of
661 this Article.

662

663 **Section 9.6.5. Historic buildings.**

664

665 A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building
666 that is determined eligible for the exception to the flood resistant construction requirements of the
667 Florida Building Code, Existing Building, Chapter 11 Historic Buildings, upon a determination that the
668 proposed repair, improvement, or rehabilitation will not preclude the building's continued designation
669 as a historic building and the variance is the minimum necessary to preserve the historic character and
670 design of the building. If the proposed work precludes the building's continued designation as a historic
671 building, a variance shall not be granted and the building and any repair, improvement, and
672 rehabilitation shall be subject to the requirements of the Florida Building Code.

673

674 **Section 9.6.6. Functionally dependent uses.**

675

676 A variance is authorized to be issued for the construction or substantial improvement necessary for the
677 conduct of a functionally dependent use, as defined in this Article, provided the variance meets the
678 requirements of § 9.6.4., is the minimum necessary considering the flood hazard, and all due
679 consideration has been given to use of methods and materials that minimize flood damage during
680 occurrence of the base flood.

681

682 **Section 9.6.7. Considerations for issuance of variances.**

683

684 In reviewing requests for variances, the Cape Coral Hearing Examiner shall consider all technical
685 evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this Article,
686 and the following:

687

- 688 A. The danger that materials and debris may be swept onto other lands resulting in further injury or
689 damage;

690

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- 691 B. The danger to life and property due to flooding or erosion damage;
692
693 C. The susceptibility of the proposed development, including contents, to flood damage and the effect
694 of such damage on current and future owners;
695
696 D. The importance of the services provided by the proposed development to the City of Cape Coral;
697
698 E. The availability of alternate locations for the proposed development that are subject to lower risk of
699 flooding or erosion;
700
701 F. The compatibility of the proposed development with existing and anticipated development;
702
703 G. The relationship of the proposed development to the comprehensive plan and floodplain
704 management program for the area;
705
706 H. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
707
708 I. The expected heights, velocity, duration, rate of rise, and debris and sediment transport of the
709 floodwaters and the effects of wave action, if applicable, expected at the site; and
710
711 J. The costs of providing governmental services during and after flood conditions including
712 maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water
713 systems, streets, and bridges.
714

715 **Section 9.6.8. Conditions for issuance of variances.**

716
717 Variances shall be issued only upon:

- 718
719 A. Submission by the applicant of a showing of good and sufficient cause that the unique
720 characteristics of the size, configuration, or topography of the site limit compliance with any
721 provision of this Article or the required elevation standards;
722
723 B. Determination by the Cape Coral Hearing Examiner that:
724
725 1. Failure to grant the variance would result in exceptional hardship due to the physical
726 characteristics of the land that render the lot undevelopable; increased costs to satisfy the
727 requirements, or inconvenience do not constitute hardship;
728
729 2. The granting of a variance will not result in increased flood heights, additional threats to public
730 safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the
731 public, or conflict with existing local laws and ordinances; and
732
733 3. The variance is the minimum necessary, considering the flood hazard, to afford relief;
734
735 C. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the
736 Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected

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737 parcel of land; and

738

739 D. If the request is for a variance to allow construction of the lowest floor of a new building or
740 substantial improvement of a building below the required elevation, a copy in the record of a
741 written notice from the Floodplain Administrator to the applicant for the variance, specifying the
742 difference between the base flood elevation and the proposed elevation of the lowest floor, stating
743 that the cost of federal flood insurance will be commensurate with the increased risk resulting from
744 the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and
745 stating that construction below the base flood elevation increases risks to life and property.

746

747 **Chapter 7. VIOLATIONS.**

748

749 **Section 9.7.1. Violations.**

750

751 Any development that is not within the scope of the Florida Building Code but that is regulated by this
752 Article that is performed without an issued permit, that is in conflict with an issued permit or that does
753 not fully comply with this Article, shall be deemed a violation of this Article. A building or structure
754 without the documentation of elevation of the lowest floor, other required design certifications, or
755 other evidence of compliance required by this Article or the Florida Building Code is presumed to be a
756 violation until such time as that documentation is provided.

757

758 **Section 9.7.2. Authority.**

759

760 For development that is not within the scope of the Florida Building Code but regulated by this Article
761 and determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation
762 or stop work orders to owners of the property involved, to the owner's agent, or to the person or
763 persons performing the work.

764

765 **Section 9.7.3. Unlawful continuance.**

766

767 Any person who shall continue any work after having been served with a notice of violation or a stop
768 work order, except such work as that person is directed to perform to remove or remedy a violation or
769 unsafe condition, shall be subject to penalties as prescribed by law.

770

771 **CHAPTER 8. FLOOD RESISTANT DEVELOPMENT**

772

773 **Section 9.8.1. Design and construction of buildings, structures, and facilities exempt from the Florida
774 Building Code.**

775

776 Pursuant to § 9.3.3. of this Article, buildings, structures, and facilities that are exempt from the Florida
777 Building Code, including substantial improvement or repair of substantial damage of such buildings,
778 structures, and facilities, shall be designed and constructed in accordance with the flood load and flood
779 resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that
780 are not walled and roofed buildings shall comply with the requirements of § 9.8.14. of this Article.

781

782 **Section 9.8.2. Buildings and structures seaward of the coastal construction control line.**

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783
784 If extending, in whole or in part, seaward of the coastal construction control line and also, in whole or in
785 part, in a flood hazard area:

- 786
787 A. Buildings and structures shall be designed and constructed to comply with the more restrictive
788 applicable requirements of the Florida Building Code, Building Section 3109 and Section 1612 or
789 Florida Building Code, Residential Section R322; and
790
791 B. Minor structures and non-habitable major structures as defined in F.S. § 161.54, shall be designed and
792 constructed to comply with the intent and applicable provisions of this Article and ASCE 24.
793

794 **Section 9.8.3. Subdivision Minimum requirements.**

795
796 Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be
797 reviewed to determine that:

- 798
799 A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe
800 from flooding;
801
802 B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are
803 located and constructed to minimize or eliminate flood damage; and
804
805 C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate
806 drainage paths shall be provided to guide floodwaters around and away from proposed structures.
807

808 **Section 9.8.4. Subdivision plats.**

809
810 Where any portion of proposed subdivisions lies within a flood hazard area, the following shall be
811 required:

- 812
813 A. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations,
814 as appropriate, shall be shown on preliminary plats;
815
816 B. Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are
817 not included on the FIRM, the base flood elevations determined in accordance with § 9.4.2. of this
818 Article; and
819
820 C. Compliance with the site improvement and utilities requirements of § 9.8.5., 9.8.6., 9.8.7., 9.8.8.,
821 9.8.9., and 9.8.10. of this Article.
822

823 **Section 9.8.5. Minimum requirements for site improvements, utilities, and limitations.**

824
825 All proposed new development shall be reviewed to determine that:

- 826
827 A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe
828 from flooding;

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829
830 B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are
831 located and constructed to minimize or eliminate flood damage; and
832

833 C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate
834 drainage paths shall be provided to guide floodwaters around and away from proposed structures.
835

836 **Section 9.8.6. Sanitary sewage facilities.**
837

838 All new and replacement sanitary sewage facilities, private sewage treatment plants (including all
839 pumping stations and collector systems), and on-site waste disposal systems shall be designed in
840 accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C.
841 and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge
842 from the facilities into flood waters, and impairment of the facilities and systems.
843

844 **Section 9.8.7. Water supply facilities.**
845

846 All new and replacement water supply facilities shall be designed in accordance with the water well
847 construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate
848 infiltration of floodwaters into the systems.
849

850 **Section 9.8.8. Limitations on sites in regulatory floodways.**
851

852 No development, including site improvements and land disturbing activity involving fill or regrading shall
853 be authorized in the regulatory floodway unless the floodway encroachment analysis required in § 9.4.3.
854 of this Article demonstrates that the proposed development or land disturbing activity will not result in
855 any increase in the base flood elevation.
856

857 **Section 9.8.9. Limitations on placement of fill.**
858

859 Subject to the limitations of this Article, fill shall be designed to be stable under conditions of flooding
860 including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against
861 flood-related erosion and scour. In addition to these requirements, if intended to support buildings and
862 structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.
863

864 **Section 9.8.10. Limitations on sites in coastal high hazard areas (Zone V).**
865

866 In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such
867 alteration is approved by the Florida Department of Environmental Protection and only if the engineering
868 analysis required by § 9.4.3.(D) of this Article demonstrates that the proposed alteration |will not increase
869 the potential for flood damage. Construction or restoration of dunes under or around elevated buildings
870 and structures shall comply with § 9.8.14.(H) of this Article.
871

872 **Section 9.8.11. Manufactured homes.**
873

874 A. General. All manufactured homes installed in flood hazard areas shall be installed by an installer that

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875 is licensed pursuant to F.S. § 320.8249, and shall comply with the requirements of Chapter 15C-1,
876 F.A.C. and the requirements of this Article. If located seaward of the coastal construction control line,
877 all manufactured homes shall comply with the more restrictive of the applicable requirements.
878

879 B. Foundations. All new manufactured homes and replacement manufactured homes installed in flood
880 hazard areas shall be installed on permanent, reinforced foundations that:

881
882 1. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance
883 with the foundation requirements of the Florida Building Code, Residential Section R322.2 and
884 this Article; and

885
886 2. In coastal high hazard areas (Zone V), are designed in accordance with the foundation
887 requirements of the Florida Building Code, Residential Section R322.3 and this Article.
888

889 C. Anchoring. All new manufactured homes and replacement manufactured homes shall be installed
890 using methods and practices which minimize flood damage and shall be securely anchored to an
891 adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods
892 of anchoring include use of over-the-top or frame ties to ground anchors. This anchoring requirement
893 is in addition to applicable state and local anchoring requirements for wind resistance.
894

895 D. Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply
896 with one of the following requirements, as applicable:

897
898 1. General elevation requirement. Unless subject to the requirements of § 9.8.11.D.2. of this Article,
899 all manufactured homes that are placed, replaced, or substantially improved on sites: (a) outside
900 of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision;
901 (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing
902 manufactured home park or subdivision upon which a manufactured home has incurred
903 substantial damage as the result of a flood, shall be elevated such that the bottom of the frame
904 is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building
905 Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V);
906

907 2. Elevation requirement for certain existing manufactured home parks and subdivisions.
908 Manufactured homes that are not subject to § 9.8.11.D.1. of this Article, including manufactured
909 homes that are placed, replaced, or substantially improved on sites located in an existing
910 manufactured home park or subdivision, unless on a site where substantial damage as result of
911 flooding has occurred, shall be elevated such that either the:

912
913 a. Bottom of the frame of the manufactured home is at or above the elevation required, as
914 applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2
915 (Zone A) or Section R322.3 (Zone V); or

916
917 b. Bottom of the frame is supported by reinforced piers or other foundation elements of at least
918 equivalent strength that are not less than 36 inches in height above grade.
919

920 E. Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements

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921 of the Florida Building Code, Residential Section R322 for such enclosed areas, as applicable to the
922 flood hazard area.

923
924 F. Utility equipment. Utility equipment that serves manufactured homes, including electric, heating,
925 ventilation, plumbing, air conditioning equipment, and other service facilities shall comply with the
926 requirements of the Florida Building Code, Residential Section R322, as applicable to the flood hazard
927 area.

928
929 **Section 9.8.12. Recreational vehicles and park trailers.**

930
931 A. Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas
932 shall:

- 933
934 1. Be on the site for fewer than 180 consecutive days; and
935
936 2. Be fully licensed and ready for highway use, which means the recreational vehicle or park model
937 is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and
938 security devices, and has no permanent attachments such as additions, rooms, stairs, decks, and
939 porches.

940
941 B. Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in §
942 9.8.12.A. of this Article for temporary placement shall meet the requirements of § 9.8.11. of this
943 Article for manufactured homes.

944
945 **Section 9.8.13. Tanks.**

946
947 A. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation,
948 collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions
949 of the design flood, including the effects of buoyancy assuming the tank is empty.

950
951 B. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements
952 of § 9.8.13.C. of this Article shall:

- 953
954 1. Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the
955 tanks are anchored or otherwise designed and constructed to prevent flotation, collapse, or
956 lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the
957 design flood, including the effects of buoyancy assuming the tank is empty and the effects of
958 flood-borne debris; and

959
960 2. Not be permitted in coastal high hazard areas (Zone V).

961
962 C. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and
963 elevated to or above the design flood elevation on a supporting structure that is designed to prevent
964 flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting
965 structures shall meet the foundation requirements of the applicable flood hazard area.

966

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- 967 D. Tank inlets and vents. Tank inlets, fill openings, outlets, and vents shall be:
968
969 1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of
970 floodwater or outflow of the contents of the tanks during conditions of the design flood; and
971
972 2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads,
973 including the effects of buoyancy, during conditions of the design flood.
974

975 **Section 9.8.14. Other development.**
976

- 977 A. General requirements for other development. All development, including man-made changes to
978 improved or unimproved real estate for which specific provisions are not specified in this Article or
979 the Florida Building Code, shall:
980
981 1. Be located and constructed to minimize flood damage;
982
983 2. Meet the limitations of § 9.8.8. of this Article if located in a regulated floodway;
984
985 3. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads,
986 including the effects of buoyancy, during conditions of the design flood;
987
988 4. Be constructed of flood damage- resistant materials; and
989
990 5. Have mechanical, plumbing, and electrical systems above the design flood elevation, except that
991 minimum electric service required to address life safety and electric code requirements is
992 permitted below the design flood elevation provided it conforms to the provisions of the electrical
993 part of building code for wet locations.
994
995 B. Fences in regulated floodways. Fences in regulated floodways that have the potential to block the
996 passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of
997 § 9.8.8. of this Article.
998
999 C. Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and sidewalks and
1000 driveways that involve the placement of fill in regulated floodways shall meet the limitations of §
1001 9.8.8. of this Article.
1002
1003 D. Roads and watercourse crossings in regulated floodways. Roads and watercourse crossings, including
1004 roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel
1005 from one side of a watercourse to the other side, that encroach into regulated floodways, shall meet
1006 the limitations of § 9.8.8. of this Article. Alteration of a watercourse that is part of a road or
1007 watercourse crossing shall meet the requirements of § 9.4.3.C. of this Article.
1008
1009 E. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios, and similar
1010 nonstructural uses in coastal high hazard areas (Zone V).
1011
1012 In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks,

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1013 walkways, patios, and similar nonstructural uses are permitted beneath or adjacent to buildings and
1014 structures provided the concrete slabs are designed and constructed to be:

- 1015
- 1016 1. Structurally independent of the foundation system of the building or structure;
 - 1017
 - 1018 2. Frangible and not reinforced, to minimize debris during flooding that is capable of causing
 - 1019 significant damage to any structure; and
 - 1020
 - 1021 3. Have a maximum slab thickness of not more than four inches.
 - 1022

1023 F. Decks and patios in coastal high hazard areas (Zone V). In addition to the requirements of the Florida
1024 Building Code, in coastal high hazard areas decks and patios shall be located, designed, and
1025 constructed in compliance with the following:

- 1026
- 1027 1. A deck that is structurally attached to a building or structure shall have the bottom of the lowest
1028 horizontal structural member at or above the design flood elevation and any supporting members
1029 that extend below the design flood elevation shall comply with the foundation requirements that
1030 apply to the building or structure, which shall be designed to accommodate any increased loads
1031 resulting from the attached deck;
 - 1032
 - 1033 2. A deck or patio that is located below the design flood elevation shall be structurally independent
1034 from buildings or structures and their foundation systems and shall be designed and constructed
1035 either to remain intact and in place during design flood conditions or to break apart into small
1036 pieces to minimize debris during flooding that is capable of causing structural damage to the
1037 building or structure or to adjacent buildings and structures;
 - 1038
 - 1039 3. A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with
1040 more than the minimum amount of fill necessary for site drainage shall not be approved unless
1041 an analysis prepared by a qualified registered design professional demonstrates no harmful
1042 diversion of floodwaters or wave runup and wave reflection that would increase damage to the
1043 building or structure or to adjacent buildings and structures; and
 - 1044
 - 1045 4. A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on
1046 nonstructural fill material that is similar to and compatible with local soils and is the minimum
1047 amount necessary for site drainage may be approved without requiring analysis of the impact on
1048 diversion of floodwaters or wave runup and wave reflection.

1049

1050 G. Other development in coastal high hazard areas (Zone V).

1051

1052 In coastal high hazard areas, development activities other than buildings and structures shall be
1053 permitted only if also authorized by the appropriate federal, state, or local authority; if located outside
1054 the footprint of and not structurally attached to buildings and structures; and if analyses prepared by
1055 qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave
1056 runup and wave reflection that would increase damage to adjacent buildings and structures. Such
1057 other development activities include but are not limited to:

1058

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- 1059 1. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
1060
1061 2. Solid fences, privacy walls, and fences prone to trapping debris, unless designed and constructed
1062 to fail under flood conditions less than the design flood or otherwise function to avoid obstruction
1063 of floodwaters; and
1064
1065 3. On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or
1066 mound systems.
1067
1068 H. Nonstructural fill in coastal high hazard areas (Zone V).
1069
1070 1. Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for
1071 landscaping and for drainage purposes under and around buildings.
1072
1073 2. Nonstructural fill with finished slopes that are steeper than one unit vertical to five units
1074 horizontal shall be permitted only if an analysis prepared by a qualified registered design
1075 professional demonstrates no harmful diversion of floodwaters or wave runup and wave
1076 reflection that would increase damage to adjacent buildings and structures.
1077
1078 3. Where authorized by the Florida Department of Environmental Protection or applicable local
1079 approval, sand dune construction and restoration of sand dunes under or around elevated
1080 buildings are permitted without additional engineering analysis or certification of the diversion of
1081 floodwater or wave runup and wave reflection if the scale and location of the dune work is
1082 consistent with local beach-dune morphology and the vertical clearance is maintained between
1083 the top of the sand dune and the lowest horizontal structural member of the building.
1084

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ARTICLE 10 - SUBDIVISIONS**

Chapter 1. Subdivisions

Section 10.1.1. Purpose and Intent

The purpose and intent of this Article is to establish the procedures for review and approval of proposed subdivisions and plats within the City of Cape Coral in accordance with Chapter 177 Part 1 of the Florida Statutes, the City of Cape Coral Technical Requirements for Plat Approval, and this Code.

Section 10.1.2 Applicability and Process.

- A. Applicability. This Section shall apply to any subdivision or re-subdivision of land in the City.
1. No subdivision shall be platted or recorded, no lot shall be sold, and no building or development permit be issued unless the subdivision meets all applicable laws of the state, this code, and has been approved by the City in accordance with the requirements of this Article.
 2. This section shall not apply to any land forming part of a subdivision created and recorded prior to effective date of the ordinance from which this article is derived, but it shall apply to any re-subdividing (replats) of previously approved subdivisions and all new subdivisions.
 3. It is not intended by the provisions of these regulations to repeal, abrogate, annul, or in any way impair or interfere with private restrictions placed upon property by deed, covenant, or private agreement, except that where this article imposes higher standards than imposed by such deeds, covenants, or private agreements then the provisions of this article shall apply. The City shall not be responsible for enforcement of such deeds, covenants, or agreements.
- B. Unless otherwise exempt from this Section or approved as a lot split, all subdivision of land is subject to a three-step review process consisting of:
1. Preliminary Subdivision Plan (PSP) approval;
 2. Subdivision Construction Plan (SCP) approval; and
 3. Plat approval and recording.
- C. PSP approval is optional for lot splits and those projects in compliance with zoning regulations. SCP approval is required prior to Plat approval.

Section 10.1.3 General Requirements.

- A. All division of land in the City shall occur only as a new subdivision plat, a replat, or a lot split. The requirements for lot splits are set forth in Article 3, Chapter 3, Section 3.3.4.
- B. No lot split shall be recognized by the City, no lot that is part of a lot split shall be sold, and no building permit shall be issued unless the lot split has been approved by the City prior to recording in accordance with the requirements of Article 3, Chapter 3, Section 4.

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- 47
- 48 C. A PSP depicts the proposed subdivision layout and the preliminary design of any required
- 49 improvements which may include off-site improvements. A Preliminary Subdivision Plan is an
- 50 administrative approval, pursuant to Article 3 of this Code.
- 51
- 52 D. Following PSP approval, applicants may then seek approval of the SCP and Plat.
- 53
- 54 E. The SCP shall depict the detailed engineering and construction plans to develop a subdivision and all
- 55 required improvements, in accordance with the approved PSP.
- 56
- 57 F. Subdivisions may be approved for phased development. Phasing must be shown on the PSP.
- 58
- 59 G. An application for Plat review shall not be submitted prior to application for SCP approval. The
- 60 applications may be submitted concurrently.
- 61
- 62 H. Electronic file. In addition to any hard copies that may be required all PSPs, SCPs, and Plats shall
- 63 submitted as electronic files in a format acceptable to the City.
- 64
- 65 I. No plat or replat of any subdivision shall be recorded in the office of the Lee County Clerk until the
- 66 plat has been duly approved by City Council in the manner prescribed herein.
- 67
- 68 J. All plats approved by the City Council shall be recorded by the developer at the Lee County Clerk of
- 69 Circuit Court within 20 business days of receiving the approved plat from the City.
- 70
- 71 K. Employment of engineers, surveyors, and other design consultants. A professional engineer licensed
- 72 in the State of Florida shall prepare the respective plans to be included in all applications for approval.
- 73 The engineer shall design all required improvements such as streets, drainage systems, water and
- 74 sewage facilities, etc. Plats shall be prepared by a professional surveyor and mapper licensed in the
- 75 State of Florida. All plans, drawings, reports, and calculations shall be prepared, signed, and sealed by
- 76 the appropriate licensed professional, such as engineers, architects, landscape architects, land
- 77 surveyors, and attorneys registered in the state. Other specialized consultants, such as environmental
- 78 consultants, structural engineers, archaeologists, etc., may be required to assist in the preparation of
- 79 the plans, drawings, reports, and other documents required as application submittals.
- 80
- 81 L. It shall be unlawful for the owner or agent of the owner of any land in the City to transfer, sell, or
- 82 convey land by reference to, exhibition of, or other use of a plat of a subdivision of such land without
- 83 having recorded an approved plat with the Lee County Clerk as required herein. If such unlawful use
- 84 is made of a plat before it is properly approved and recorded, the owner or agent shall be guilty of a
- 85 misdemeanor of the first degree, punishable as provided in Florida Statutes 665.083 or Florida
- 86 Statutes 775.082. Provided, however, that nothing herein shall affect the validity of transfers on sales
- 87 of interests in property.
- 88

89 **Section 10.1.4 Preliminary Subdivision Plan Approval.**

90

- 91 A. Purpose and intent. The purpose of Preliminary Subdivision Plan approval is to help prevent
- 92 unnecessary and costly revisions during the Subdivision Construction Plan and Plat preparation stage

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93 of the subdivision development process. The Preliminary Subdivision Plan depicts the proposed
94 subdivision layout and preliminary design of the proposed improvements in sufficient detail in order
95 that it may be evaluated and granted preliminary approval pursuant to this Code.
96

97 B. Review Process.
98

99 1. Applications for a Preliminary Subdivision Plan approval are reviewed in the same manner as
100 administrative approvals, as established in Article 3 of this Code.
101

102 2. All applications must be prepared by a Florida registered professional engineer and shall be
103 submitted on forms provided by the Director.
104

105 C. Expiration. The PSP approval shall expire and be of no further force and effect if a completed
106 application for SCP approval is not filed within two years of PSP approval. After expiration of
107 two years, the applicant will be required to re-submit the PSP for review and approval as set forth in
108 this Article. Applicants may apply for an extension prior to the expiration date. The applicant shall
109 demonstrate good cause for the extension. The Community Development Director may extend the
110 approval period up to twelve (12) months if the applicant has progressed in good faith toward the
111 implementation of the subdivision. Subdivisions approved in conjunction with a PUD shall be
112 governed by the Master Concept Plan (MCP)(and any, phasing, conditions, or requirements of the
113 PUD.
114

115 **Section 10.1.5 Subdivision Construction Plan Approval.**
116

117 A. Application required. The applicant shall submit Subdivision Construction Plans for the required
118 subdivision improvements in compliance with the PSP approval or a PUD MCP. No construction shall
119 commence until the applicant has received requisite design approvals, permits, and complied with
120 applicable provisions of this article.
121

122 B. Timing. Applications for SCP approval must be submitted within two years of City approval of the PSP.
123 Applications for approval of subsequent phases, if any, shall occur within twelve (12) months of the
124 issuance of a certification of completion of the previous phase. Failure to submit for SCP approval
125 within a specified amount of time shall require reapplication under the PSP requirements of this
126 Article. Applicants may not apply for SCP approval for any portion of the subdivision that is not to be
127 constructed within the following twelve (24) months. Failure to make application for SCP approval
128 within required time periods may result in revocation of a Preliminary Subdivision Plan, unless the
129 applicant has applied for an extension from the Community Development Director prior to the lapse.
130 The request for the extension must be made prior to the expiration date. The applicant shall
131 demonstrate good cause for the extension. The Community Development Director may extend the
132 prescribed time period up to twelve (12) months if the applicant has progressed in good faith toward
133 the implementation of the PSP.
134

135 C. Review Process. Application review and approval follows the administrative review procedure as
136 established in Sections 3.1.4 through 3.1.8 of Article 3. Specifically, SCP's are reviewed in accordance
137 with Section 3.3.7.
138

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- 139 D. Approval of the SCP. Upon approval of the SCP the developer may proceed with construction in
140 accordance with Section 3.3.7. or the developer may complete the Plat review process for recording
141 the Plat.
142
- 143 E. When the developer elects to install the subdivision improvements prior to recording of the plat, a
144 Certificate of Completion for the improvements must be obtained in accordance with Section 3.3.7.,
145 prior recoding the plat. The final plat shall not be scheduled for City Council approval prior to receipt
146 of the Certificate of Completion.
147
- 148 F. When the developer intends to record the plat prior to installation of the required improvements the
149 developer shall provide assurance of completion of the improvements as approved in the SCP.
150
- 151 1. Assurance of completion of improvements. Assurance of completion of the subdivision
152 improvements as specified below will be required for all on and off-site improvements, required
153 to support the subdivision. Assurance of completion of the improvements will be required prior
154 to scheduling the plat for City Council approval. Those subdivision improvements that have been
155 constructed, inspected, and approved by the Development Services Manger through the issuance
156 of a Certificate of Completion may be excluded from the financial assurance provided.
157
- 158 2. Surety or cash performance bond. Security in the form of a surety or cash performance bond must
159 be posted with the Community Development Department and made payable to the City in an
160 amount equal to 110 percent of the full cost of installing the required improvements approved by
161 the City. If the proposed improvement will not be constructed within one year of issuance of the
162 subdivision infrastructure permit, the amount of the surety or cash performance bond must be
163 increased by ten percent compounded for each year of the life of the surety or bond. Alternatively,
164 the surety or cash performance bond may be renewed annually at 110 percent of the cost of
165 completing the remaining required improvements if approved by the Director. Prior to
166 acceptance, bonds must be reviewed and approved by the City Attorney's Office. Surety
167 instruments will be reviewed and approved in accord with the provisions set forth in City of Cape
168 Coral Technical Requirements for Plat Approval.
169
- 170 3. Other types of security. The Director may accept letters of credit or escrow account agreements
171 or other forms of security provided that the reasons for not obtaining the bond are stated and
172 the City Attorney approves the document. Review and approval of surety instruments will be in
173 accord with the guidelines set forth in City of Cape Coral Technical Requirements for Plat
174 Approval.
175
- 176 G. Engineers Opinion of Probable Construction Costs. Cost opinions prepared to determine the amount
177 of the financial surety shall be prepared in accordance with Article 3 of this Code and shall also include
178 the cost of setting all permanent control points (PCPs) required by Section 10.1.7. of this Code.
179
- 180 H. Phasing. The SCP may contain phases as provided on the PSP or MCP. Each phase of a subdivision
181 shall install all required improvements to support that phase and provide continuation of
182 improvements as may be required from previous phases and for future phases. No phase shall be
183 approved if it is dependent on a future unconstructed phase of the subdivision.
184

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- 185 I. Applicant's failure to complete required improvements.
186
187 1. Failure of applicant to complete required improvements. When a plat has been recorded and the
188 applicant fails to complete the required improvements as required by this article, the City shall
189 require the completion of the required improvements under the financial assurance provided by
190 the Developer. In such case, the City shall call upon the financial surety to secure satisfactory
191 completion of the required improvements. Legal notice of such action shall be deemed to have
192 been duly served upon demand of the Director via certified mail return receipt requested.
193
194 2. In cases where plat has not been recorded. Where an applicant has elected to install the required
195 improvements prior to recording of the plat and fails to complete such improvements within the
196 time limitations of this article, all approvals of the subdivision shall be null and void. No reference
197 shall be made to the plat with respect to the sale of lots or issuance of building permits, unless
198 and until the Developer submits a new application for SCP and Plat approval.
199

200 **Section 10.1.6 Plat Approval.**

- 201
202 A. Plat approval procedures. Plats must be prepared in accordance with Chapter 177 Part 1 of the Florida
203 Statutes, and the City of Cape Coral Technical **Requirements** for Plat Approval, which are hereby
204 incorporated by reference. The preliminary plat must be submitted during the SCP review. SCP
205 approval will not be granted prior to approval of the preliminary plat. The Final Plat shall incorporate
206 all changes or modifications resulting from the review of the SCP and any remaining conditions or
207 requirements of the PSP or MCP approval.
208
209 B. Review Process. Application review and approval follows the administrative review procedure as
210 established in Article 3 of this Code.
211
212 C. Supplemental information required for plat review.
213
214 1. Operation and maintenance covenants. Where applicable, a copy of the covenants used for the
215 maintenance and operation of the infrastructure improvements required by this Code including
216 private streets and adjacent drainage, drainage and storm water management systems, utilities,
217 public water and sewage systems, on-site bikeways, on-site pedestrian ways, open space, parks,
218 recreation areas, and buffers. These documents must meet the criteria set forth in the City of
219 Cape Coral Technical **Requirements** for Plat Approval.
220
221 2. Articles of incorporation and bylaws or other legal documents for assignment of maintenance.
222 The developer must submit a copy of the legal documents creating the legal mechanism to ensure
223 that the drainage system, on-site bikeways, on-site pedestrian ways, roadways and rights-of-way
224 are continuously maintained. These documents must meet the requirements set forth in the City
225 of Cape Coral Technical **Requirements** for Plat Approval.
226
227 D. After the final plat has been approved and certified by the Community Development Director, the City
228 Surveyor, and the City Attorney that it complies with all applicable requirements of this Code, the
229 Director shall schedule the Plat for acceptance by City Council. The plat will be scheduled as a consent
230 agenda item on an upcoming City Council meeting. Upon City Council approval and acceptance of the

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231 plat, the Mayor and City Clerk shall indicate such approval on the final plat by signing the certificate
232 of approval for recording. The Director will notify the developer when the approved Plat has been
233 signed and ready for recording.
234

235 E. Revisions after final plat approval by City Council and prior to recordation.
236

237 1. Recording information for the property or home owner's association documents may be added
238 to the plat at the time of recording of the documents.
239

240 2. Any other changes, erasures, modifications, or revisions to an approved plat prior to recordation
241 may only be made by the Community Development Director to correct scrivener's errors. No
242 such request shall be considered unless made by the preparer of the plat.
243

244 3. No other changes, erasures, modifications, or revisions may be made to an approved final plat
245 prior to recordation unless a new application and fee are submitted for review and approval.
246

247 F. Approval of the Plat by the City shall not constitute acceptance by the City of the dedication of any
248 public street, other public way, easement, or improvement or the responsibility to construct or
249 maintain any improvements unless so indicated in the dedication on the plat.
250

251 G. Recording. The approved plat shall be recorded with Lee County Clerk of Circuit Court within twenty
252 (20) days of receiving the approved plat from the City. After recordation of the plat, the
253 developer shall provide to the Community Development Director a full size certified copy of the
254 recorded plat.
255

256 H. Building permits. No building permits for residential or residential accessory structures shall be issued
257 until the final plat has been recorded and all subdivision improvements have either been completed or
258 sufficient assurance of completion has been reviewed and approved by the City Attorney.
259

260 I. Phasing. The applicant may construct the proposed development and record plats for any phase
261 approved on the PSP or MCP. The phases shall have been specified on the approved Preliminary
262 Subdivision Plan and shall be of such a size and design that all phases completed at any time can exist
263 independently as a subdivision in complete conformity with the requirements of this article. Any
264 change in the sequence of phases must receive prior approval by the Development Services Manager.
265 If PSP or MCP is phased, the applicant shall have the option of platting one or more of the
266 development phases in a single plat in conformity with all the procedures and requirements of this
267 article.
268

269 **Section 10.1.7 Minimum Design Standards.**
270

271 A. Monumentation. Monuments must be installed in accordance with F.S. Ch. 177.091(9).
272

273 1. Permanent reference monuments. Permanent reference monuments (PRMs) must be placed on
274 the boundary of all subdivisions as required by F.S. Ch. 177, as amended, and approved by a
275 licensed, registered state professional surveyor and mapper.
276

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- 277 2. Monuments must be set in the ground so that the top is flush or no more than one-half foot
278 below the existing ground. Subsurface PRMs must be exposed for inspection when a plat is
279 submitted for review. If development of the subdivision occurs after a plat is reviewed, the PRMs
280 must be raised or lowered to be flush or no more than one-half foot below the finished ground.
281 Subsurface PRMs must be exposed for inspection at the time of final inspection of the
282 development.
283
- 284 B. Permanent control points. Permanent control points (PCPs) must be installed in accordance with F.S.
285 Ch. 177. When a plat is recorded prior to construction of the subdivision improvements, the PCPs
286 must be set following completion of construction. The surveyor must certify that the PCPs have been
287 set and must record the certification in the official record books of the County.
288
- 289 C. Streets.
290
- 291 1. The widths and locations of all public or private streets in a proposed subdivision shall Conform
292 to the City of Cape Coral Engineering Design Standards.
293
- 294 2. Street extensions.
295
- 296 a. The street layout of the proposed subdivision shall provide for the continuation or
297 projection of streets already existing in areas adjacent to the area being subdivided unless
298 such continuation or extension is for specific reasons of topography or design.
299
- 300 b. Where it is necessary for public safety to provide street access to adjoining properties,
301 proposed streets shall be extended by dedication to the boundaries of such properties.
302 Where it is determined necessary for public safety, dead-end streets shall be provided
303 with a temporary turnaround having a radius as specified in the City of Cape Coral
304 Engineering Design Standards.
305
- 306 c. The street system for the proposed subdivision shall provide for extending existing streets
307 at the same or greater width, but in no case, shall a street extension be of less width than
308 the minimum width required by the City of Cape Coral Engineering Design Standards for a
309 street in its category.
310
- 311 3. Dedication of right-of-way for new streets.
312
- 313 a. The dedication of rights-of-way for new streets, measured from lot line to lot line, shall
314 meet the standards specified in the City of Cape Coral Engineering Design Standards.
315
- 316 b. Dedication of one-half of the rights-of-way for proposed streets along the boundaries of
317 land proposed for subdivision shall be prohibited.
318
- 319 4. Dedication of right-of-way for existing streets.
320

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- 321 a. Subdivisions platted along existing streets shall dedicate additional rights-of-way if
322 necessary to meet the minimum street width requirements for new streets set forth in the
323 City of Cape Coral Engineering Design Standards.
324
- 325 b. The entire minimum right-of-way width shall be dedicated where the subdivision is on
326 both sides of an existing street. When the subdivision is located on only one side of an
327 existing street, one-half of the required right-of-way width, measured from the center line
328 of the existing right-of-way or street, as appropriate, shall be dedicated.
329
- 330 5. Intersections. Intersections shall be designed and spaced as set forth in the City of Cape Coral
331 Engineering Design Standards.
332
- 333 6. Curves in streets; horizontal and vertical. All curves in streets shall be designed and
334 constructed as set forth in the City of Cape Coral Engineering Design Standards.
335
- 336 7. Street grades and elevations. Street grades and elevations shall conform to the City of Cape
337 Coral Engineering Design Standards.
338
- 339 8. Frontage access streets. Where the proposed subdivision abuts upon or contains an existing
340 or proposed arterial street or highway on which traffic volumes and vehicular speeds warrant
341 special safety considerations, the City shall require that frontage access streets be provided in
342 order that no lots will front on such existing or proposed arterial street or highway.
343
- 344 9. Street jogs. Street jogs must be as set forth in the City of Cape Coral Engineering Design
345 Standards.
346
- 347 10. Dead-end streets (cul-de-sacs). Cul-de-sacs or dead-end streets must be designed to conform
348 to the City of Cape Coral Engineering Design Standards.
349
- 350 11. Street names. Proposed streets which are in alignment with other already existing and named
351 streets shall bear the names of such existing streets. The name of a proposed street which is
352 not in alignment with an existing street shall not duplicate the name of any existing street.
353
- 354 12. Alleys. Alleys may be provided to give access to the rear of all lots used for commercial and
355 industrial purposes. Alleys shall not be provided in residential blocks except in the SC district
356 or in cases where the developer produces evidence of the need for alleys which is satisfactory
357 to the City.
358
- 359 D. Blocks. Block lengths shall not exceed 1,200 feet or be less than 400 feet, except as approved by
360 the Director.
361
- 362 E. Lots.
363
- 364 1. Arrangement. Each lot in a subdivision shall be at right angles to straight street lines and radial
365 to curved street lines.
366

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367 2. Dimension and area regulations. Dimension and area regulations for all lots proposed within
368 the subdivision, including the size, shape, width, depth, area, building setback lines, corner lot
369 regulations, yard requirements, off-street parking areas, and minimum lot frontage on public
370 streets shall comply with the zoning district requirements in which the proposed subdivision
371 is located.

372

373 F. Utility and drainage easements.

374

375 1. Utility planning and coordination. To ensure that adequate and properly designed utility
376 easements are provided, developers shall consult with City staff and other appropriate
377 personnel of public utility authorities providing gas, electricity, telephone, water, sewer, or
378 other services of a similar nature before and during the planning and preparation of a
379 Preliminary Subdivision Plan.

380

381 2. Width and location. A 10' public utility easement shall be provided across the front of all lots
382 or parcels and shall be provided along each side of any street right of way or access easement.
383 Where necessary or advisable in the opinion of the City, similar easements shall be provided
384 alongside lot lines or across lots. Easement design should provide clear and orderly alignments
385 from one block to the next and from one development to the next. The easement system
386 should be continuous and well aligned to permit the efficient installation of utility service lines.

387

388 3. Underground wiring and installation. Developers shall contact overhead public utility
389 authorities in the early stages of subdivision planning to determine the procedures for
390 negotiating contracts for all underground utility service.

391

392 4. Storm drainage. Drainage easements shall be sized appropriately for the installation and
393 maintenance of drainage improvements necessary for proper drainage within or through a
394 subdivision.

395

396 G. Street lights. As established in the City of Cape Coral Engineering Design Standards.

397

398

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 10 - SUBDIVISIONS**

Chapter 1. Subdivisions

Section 10.1.1. Purpose and Intent

The purpose and intent of this Article is to establish the procedures for review and approval of proposed subdivisions and plats within the City of Cape Coral in accordance with Chapter 177 Part 1 of the Florida Statutes, the City of Cape Coral Technical Requirements for Plat Approval, and this Code.

Section 10.1.2 Applicability and Process.

- A. Applicability. This Section shall apply to any subdivision or re-subdivision of land in the City.
1. No subdivision shall be platted or recorded, no lot shall be sold, and no building or development permit be issued unless the subdivision meets all applicable laws of the state, this code, and has been approved by the City in accordance with the requirements of this Article.
 2. This section shall not apply to any land forming part of a subdivision created and recorded prior to effective date of the ordinance from which this article is derived, but it shall apply to any re-subdividing (replats) of previously approved subdivisions and all new subdivisions.
 3. It is not intended by the provisions of these regulations to repeal, abrogate, annul, or in any way impair or interfere with private restrictions placed upon property by deed, covenant, or private agreement, except that where this article imposes higher standards than imposed by such deeds, covenants, or private agreements then the provisions of this article shall apply. The City shall not be responsible for enforcement of such deeds, covenants, or agreements.
- B. Unless otherwise exempt from this Section or approved as a lot split, all subdivision of land is subject to a three-step review process consisting of:
1. Preliminary Subdivision Plan (PSP) approval;
 2. Subdivision Construction Plan (SCP) approval; and
 3. Plat approval and recording.
- C. PSP approval is optional for lot splits and those projects in compliance with zoning regulations. SCP approval is required prior to Plat approval.

Section 10.1.3 General Requirements.

- A. All division of land in the City shall occur only as a new subdivision plat, a replat, or a lot split. The requirements for lot splits are set forth in Article 3, Chapter 3, Section 3.3.4.
- B. No lot split shall be recognized by the City, no lot that is part of a lot split shall be sold, and no building permit shall be issued unless the lot split has been approved by the City prior to recording in accordance with the requirements of Article 3, Chapter 3, Section 4.

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- 47
- 48 C. A PSP depicts the proposed subdivision layout and the preliminary design of any required
- 49 improvements which may include off-site improvements. A Preliminary Subdivision Plan is an
- 50 administrative approval, pursuant to Article 3 of this Code.
- 51
- 52 D. Following PSP approval, applicants may then seek approval of the SCP and Plat.
- 53
- 54 E. The SCP shall depict the detailed engineering and construction plans to develop a subdivision and all
- 55 required improvements, in accordance with the approved PSP.
- 56
- 57 F. Subdivisions may be approved for phased development. Phasing must be shown on the PSP.
- 58
- 59 G. An application for Plat review shall not be submitted prior to application for SCP approval. The
- 60 applications may be submitted concurrently.
- 61
- 62 H. Electronic file. In addition to any hard copies that may be required all PSPs, SCPs, and Plats shall
- 63 submitted as electronic files in a format acceptable to the City.
- 64
- 65 I. No plat or replat of any subdivision shall be recorded in the office of the Lee County Clerk until the
- 66 plat has been duly approved by City Council in the manner prescribed herein.
- 67
- 68 J. All plats approved by the City Council shall be recorded by the developer at the Lee County Clerk of
- 69 Circuit Court within 20 business days of receiving the approved plat from the City.
- 70
- 71 K. Employment of engineers, surveyors, and other design consultants. A professional engineer licensed
- 72 in the State of Florida shall prepare the respective plans to be included in all applications for approval.
- 73 The engineer shall design all required improvements such as streets, drainage systems, water and
- 74 sewage facilities, etc. Plats shall be prepared by a professional surveyor and mapper licensed in the
- 75 State of Florida. All plans, drawings, reports, and calculations shall be prepared, signed, and sealed by
- 76 the appropriate licensed professional, such as engineers, architects, landscape architects, land
- 77 surveyors, and attorneys registered in the state. Other specialized consultants, such as environmental
- 78 consultants, structural engineers, archaeologists, etc., may be required to assist in the preparation of
- 79 the plans, drawings, reports, and other documents required as application submittals.
- 80
- 81 L. It shall be unlawful for the owner or agent of the owner of any land in the City to transfer, sell, or
- 82 convey land by reference to, exhibition of, or other use of a plat of a subdivision of such land without
- 83 having recorded an approved plat with the Lee County Clerk as required herein. If such unlawful use
- 84 is made of a plat before it is properly approved and recorded, the owner or agent shall be guilty of a
- 85 misdemeanor of the first degree, punishable as provided in Florida Statutes 665.083 or Florida
- 86 Statutes 775.082. Provided, however, that nothing herein shall affect the validity of transfers on sales
- 87 of interests in property.
- 88

89 **Section 10.1.4 Preliminary Subdivision Plan Approval.**

90

- 91 A. Purpose and intent. The purpose of Preliminary Subdivision Plan approval is to help prevent
- 92 unnecessary and costly revisions during the Subdivision Construction Plan and Plat preparation stage

**CITY OF CAPE CORAL, FLORIDA
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93 of the subdivision development process. The Preliminary Subdivision Plan depicts the proposed
94 subdivision layout and preliminary design of the proposed improvements in sufficient detail in order
95 that it may be evaluated and granted preliminary approval pursuant to this Code.
96

97 **B. Review Process.**
98

99 1. Applications for a Preliminary Subdivision Plan approval are reviewed in the same manner as
100 administrative approvals, as established in Article 3 of this Code.
101

102 2. All applications must be prepared by a Florida registered professional engineer and shall be
103 submitted on forms provided by the Director.
104

105 **C. Expiration.** The PSP approval shall expire and be of no further force and effect if a completed
106 application for SCP approval is not filed within two years of PSP approval. After expiration of
107 two years, the applicant will be required to re-submit the PSP for review and approval as set forth in
108 this Article. Applicants may apply for an extension prior to the expiration date. The applicant shall
109 demonstrate good cause for the extension. The Community Development Director may extend the
110 approval period up to twelve (12) months if the applicant has progressed in good faith toward the
111 implementation of the subdivision. Subdivisions approved in conjunction with a PUD shall be
112 governed by the Master Concept Plan (MCP)(and any, phasing, conditions, or requirements of the
113 PUD.
114

115 **Section 10.1.5 Subdivision Construction Plan Approval.**
116

117 **A. Application required.** The applicant shall submit Subdivision Construction Plans for the required
118 subdivision improvements in compliance with the PSP approval or a PUD MCP. No construction shall
119 commence until the applicant has received requisite design approvals, permits, and complied with
120 applicable provisions of this article.
121

122 **B. Timing.** Applications for SCP approval must be submitted within two years of City approval of the PSP.
123 Applications for approval of subsequent phases, if any, shall occur within twelve (12) months of the
124 issuance of a certification of completion of the previous phase. Failure to submit for SCP approval
125 within a specified amount of time shall require reapplication under the PSP requirements of this
126 Article. Applicants may not apply for SCP approval for any portion of the subdivision that is not to be
127 constructed within the following twelve (24) months. Failure to make application for SCP approval
128 within required time periods may result in revocation of a Preliminary Subdivision Plan, unless the
129 applicant has applied for an extension from the Community Development Director prior to the lapse.
130 The request for the extension must be made prior to the expiration date. The applicant shall
131 demonstrate good cause for the extension. The Community Development Director may extend the
132 prescribed time period up to twelve (12) months if the applicant has progressed in good faith toward
133 the implementation of the PSP.
134

135 **C. Review Process.** Application review and approval follows the administrative review procedure as
136 established in Sections 3.1.4 through 3.1.8 of Article 3. Specifically, SCP's are reviewed in accordance
137 with Section 3.3.7.
138

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- 139 D. Approval of the SCP. Upon approval of the SCP the developer may proceed with construction in
140 accordance with Section 3.3.7. or the developer may complete the Plat review process for recording
141 the Plat.
142
- 143 E. When the developer elects to install the subdivision improvements prior to recording of the plat, a
144 Certificate of Completion for the improvements must be obtained in accordance with Section 3.3.7.,
145 prior recoding the plat. The final plat shall not be scheduled for City Council approval prior to receipt
146 of the Certificate of Completion.
147
- 148 F. When the developer intends to record the plat prior to installation of the required improvements the
149 developer shall provide assurance of completion of the improvements as approved in the SCP.
150
- 151 1. Assurance of completion of improvements. Assurance of completion of the subdivision
152 improvements as specified below will be required for all on and off-site improvements, required
153 to support the subdivision. Assurance of completion of the improvements will be required prior
154 to scheduling the plat for City Council approval. Those subdivision improvements that have been
155 constructed, inspected, and approved by the Development Services Manger through the issuance
156 of a Certificate of Completion may be excluded from the financial assurance provided.
157
- 158 2. Surety or cash performance bond. Security in the form of a surety or cash performance bond must
159 be posted with the Community Development Department and made payable to the City in an
160 amount equal to 110 percent of the full cost of installing the required improvements approved by
161 the City. If the proposed improvement will not be constructed within one year of issuance of the
162 subdivision infrastructure permit, the amount of the surety or cash performance bond must be
163 increased by ten percent compounded for each year of the life of the surety or bond. Alternatively,
164 the surety or cash performance bond may be renewed annually at 110 percent of the cost of
165 completing the remaining required improvements if approved by the Director. Prior to
166 acceptance, bonds must be reviewed and approved by the City Attorney's Office. Surety
167 instruments will be reviewed and approved in accord with the provisions set forth in City of Cape
168 Coral Technical Requirements for Plat Approval.
169
- 170 3. Other types of security. The Director may accept letters of credit or escrow account agreements
171 or other forms of security provided that the reasons for not obtaining the bond are stated and
172 the City Attorney approves the document. Review and approval of surety instruments will be in
173 accord with the guidelines set forth in City of Cape Coral Technical Requirements for Plat
174 Approval.
175
- 176 G. Engineers Opinion of Probable Construction Costs. Cost opinions prepared to determine the amount
177 of the financial surety shall be prepared in accordance with Article 3 of this Code and shall also include
178 the cost of setting all permanent control points (PCPs) required by Section 10.1.7. of this Code.
179
- 180 H. Phasing. The SCP may contain phases as provided on the PSP or MCP. Each phase of a subdivision
181 shall install all required improvements to support that phase and provide continuation of
182 improvements as may be required from previous phases and for future phases. No phase shall be
183 approved if it is dependent on a future unconstructed phase of the subdivision.
184

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ARTICLE 10 - SUBDIVISIONS**

- 185 I. Applicant's failure to complete required improvements.
186
187 1. Failure of applicant to complete required improvements. When a plat has been recorded and the
188 applicant fails to complete the required improvements as required by this article, the City shall
189 require the completion of the required improvements under the financial assurance provided by
190 the Developer. In such case, the City shall call upon the financial surety to secure satisfactory
191 completion of the required improvements. Legal notice of such action shall be deemed to have
192 been duly served upon demand of the Director via certified mail return receipt requested.
193
194 2. In cases where plat has not been recorded. Where an applicant has elected to install the required
195 improvements prior to recording of the plat and fails to complete such improvements within the
196 time limitations of this article, all approvals of the subdivision shall be null and void. No reference
197 shall be made to the plat with respect to the sale of lots or issuance of building permits, unless
198 and until the Developer submits a new application for SCP and Plat approval.
199

200 **Section 10.1.6 Plat Approval.**

- 201
202 A. Plat approval procedures. Plats must be prepared in accordance with Chapter 177 Part 1 of the Florida
203 Statutes, and the City of Cape Coral Technical **Requirements** for Plat Approval, which are hereby
204 incorporated by reference. The preliminary plat must be submitted during the SCP review. SCP
205 approval will not be granted prior to approval of the preliminary plat. The Final Plat shall incorporate
206 all changes or modifications resulting from the review of the SCP and any remaining conditions or
207 requirements of the PSP or MCP approval.
208
209 B. Review Process. Application review and approval follows the administrative review procedure as
210 established in Article 3 of this Code.
211
212 C. Supplemental information required for plat review.
213
214 1. Operation and maintenance covenants. Where applicable, a copy of the covenants used for the
215 maintenance and operation of the infrastructure improvements required by this Code including
216 private streets and adjacent drainage, drainage and storm water management systems, utilities,
217 public water and sewage systems, on-site bikeways, on-site pedestrian ways, open space, parks,
218 recreation areas, and buffers. These documents must meet the criteria set forth in the City of
219 Cape Coral Technical **Requirements** for Plat Approval.
220
221 2. Articles of incorporation and bylaws or other legal documents for assignment of maintenance.
222 The developer must submit a copy of the legal documents creating the legal mechanism to ensure
223 that the drainage system, on-site bikeways, on-site pedestrian ways, roadways and rights-of-way
224 are continuously maintained. These documents must meet the requirements set forth in the City
225 of Cape Coral Technical **Requirements** for Plat Approval.
226
227 D. After the final plat has been approved and certified by the Community Development Director, the City
228 Surveyor, and the City Attorney that it complies with all applicable requirements of this Code, the
229 Director shall schedule the Plat for acceptance by City Council. The plat will be scheduled as a consent
230 agenda item on an upcoming City Council meeting. Upon City Council approval and acceptance of the

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231 plat, the Mayor and City Clerk shall indicate such approval on the final plat by signing the certificate
232 of approval for recording. The Director will notify the developer when the approved Plat has been
233 signed and ready for recording.
234

235 E. Revisions after final plat approval by City Council and prior to recordation.
236

237 1. Recording information for the property or home owner's association documents may be added
238 to the plat at the time of recording of the documents.
239

240 2. Any other changes, erasures, modifications, or revisions to an approved plat prior to recordation
241 may only be made by the Community Development Director to correct scrivener's errors. No
242 such request shall be considered unless made by the preparer of the plat.
243

244 3. No other changes, erasures, modifications, or revisions may be made to an approved final plat
245 prior to recordation unless a new application and fee are submitted for review and approval.
246

247 F. Approval of the Plat by the City shall not constitute acceptance by the City of the dedication of any
248 public street, other public way, easement, or improvement or the responsibility to construct or
249 maintain any improvements unless so indicated in the dedication on the plat.
250

251 G. Recording. The approved plat shall be recorded with Lee County Clerk of Circuit Court within twenty
252 (20) days of receiving the approved plat from the City. After recordation of the plat, the
253 developer shall provide to the Community Development Director a full size certified copy of the
254 recorded plat.
255

256 H. Building permits. No building permits for residential or residential accessory structures shall be issued
257 until the final plat has been recorded and all subdivision improvements have either been completed or
258 sufficient assurance of completion has been reviewed and approved by the City Attorney.
259

260 I. Phasing. The applicant may construct the proposed development and record plats for any phase
261 approved on the PSP or MCP. The phases shall have been specified on the approved Preliminary
262 Subdivision Plan and shall be of such a size and design that all phases completed at any time can exist
263 independently as a subdivision in complete conformity with the requirements of this article. Any
264 change in the sequence of phases must receive prior approval by the Development Services Manager.
265 If PSP or MCP is phased, the applicant shall have the option of platting one or more of the
266 development phases in a single plat in conformity with all the procedures and requirements of this
267 article.
268

269 **Section 10.1.7 Minimum Design Standards.**
270

271 A. Monumentation. Monuments must be installed in accordance with F.S. Ch. 177.091(9).
272

273 1. Permanent reference monuments. Permanent reference monuments (PRMs) must be placed on
274 the boundary of all subdivisions as required by F.S. Ch. 177, as amended, and approved by a
275 licensed, registered state professional surveyor and mapper.
276

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- 277 2. Monuments must be set in the ground so that the top is flush or no more than one-half foot
278 below the existing ground. Subsurface PRMs must be exposed for inspection when a plat is
279 submitted for review. If development of the subdivision occurs after a plat is reviewed, the PRMs
280 must be raised or lowered to be flush or no more than one-half foot below the finished ground.
281 Subsurface PRMs must be exposed for inspection at the time of final inspection of the
282 development.
283
- 284 B. Permanent control points. Permanent control points (PCPs) must be installed in accordance with F.S.
285 Ch. 177. When a plat is recorded prior to construction of the subdivision improvements, the PCPs
286 must be set following completion of construction. The surveyor must certify that the PCPs have been
287 set and must record the certification in the official record books of the County.
288
- 289 C. Streets.
290
- 291 1. The widths and locations of all public or private streets in a proposed subdivision shall Conform
292 to the City of Cape Coral Engineering Design Standards.
293
- 294 2. Street extensions.
295
- 296 a. The street layout of the proposed subdivision shall provide for the continuation or
297 projection of streets already existing in areas adjacent to the area being subdivided unless
298 such continuation or extension is for specific reasons of topography or design.
299
- 300 b. Where it is necessary for public safety to provide street access to adjoining properties,
301 proposed streets shall be extended by dedication to the boundaries of such properties.
302 Where it is determined necessary for public safety, dead-end streets shall be provided
303 with a temporary turnaround having a radius as specified in the City of Cape Coral
304 Engineering Design Standards.
305
- 306 c. The street system for the proposed subdivision shall provide for extending existing streets
307 at the same or greater width, but in no case, shall a street extension be of less width than
308 the minimum width required by the City of Cape Coral Engineering Design Standards for a
309 street in its category.
310
- 311 3. Dedication of right-of-way for new streets.
312
- 313 a. The dedication of rights-of-way for new streets, measured from lot line to lot line, shall
314 meet the standards specified in the City of Cape Coral Engineering Design Standards.
315
- 316 b. Dedication of one-half of the rights-of-way for proposed streets along the boundaries of
317 land proposed for subdivision shall be prohibited.
318
- 319 4. Dedication of right-of-way for existing streets.
320

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- 321 a. Subdivisions platted along existing streets shall dedicate additional rights-of-way if
322 necessary to meet the minimum street width requirements for new streets set forth in the
323 City of Cape Coral Engineering Design Standards.
324
- 325 b. The entire minimum right-of-way width shall be dedicated where the subdivision is on
326 both sides of an existing street. When the subdivision is located on only one side of an
327 existing street, one-half of the required right-of-way width, measured from the center line
328 of the existing right-of-way or street, as appropriate, shall be dedicated.
329
- 330 5. Intersections. Intersections shall be designed and spaced as set forth in the City of Cape Coral
331 Engineering Design Standards.
332
- 333 6. Curves in streets; horizontal and vertical. All curves in streets shall be designed and
334 constructed as set forth in the City of Cape Coral Engineering Design Standards.
335
- 336 7. Street grades and elevations. Street grades and elevations shall conform to the City of Cape
337 Coral Engineering Design Standards.
338
- 339 8. Frontage access streets. Where the proposed subdivision abuts upon or contains an existing
340 or proposed arterial street or highway on which traffic volumes and vehicular speeds warrant
341 special safety considerations, the City shall require that frontage access streets be provided in
342 order that no lots will front on such existing or proposed arterial street or highway.
343
- 344 9. Street jogs. Street jogs must be as set forth in the City of Cape Coral Engineering Design
345 Standards.
346
- 347 10. Dead-end streets (cul-de-sacs). Cul-de-sacs or dead-end streets must be designed to conform
348 to the City of Cape Coral Engineering Design Standards.
349
- 350 11. Street names. Proposed streets which are in alignment with other already existing and named
351 streets shall bear the names of such existing streets. The name of a proposed street which is
352 not in alignment with an existing street shall not duplicate the name of any existing street.
353
- 354 12. Alleys. Alleys may be provided to give access to the rear of all lots used for commercial and
355 industrial purposes. Alleys shall not be provided in residential blocks except in the SC district
356 or in cases where the developer produces evidence of the need for alleys which is satisfactory
357 to the City.
358
- 359 D. Blocks. Block lengths shall not exceed 1,200 feet or be less than 400 feet, except as approved by
360 the Director.
361
- 362 E. Lots.
363
- 364 1. Arrangement. Each lot in a subdivision shall be at right angles to straight street lines and radial
365 to curved street lines.
366

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367 2. Dimension and area regulations. Dimension and area regulations for all lots proposed within
368 the subdivision, including the size, shape, width, depth, area, building setback lines, corner lot
369 regulations, yard requirements, off-street parking areas, and minimum lot frontage on public
370 streets shall comply with the zoning district requirements in which the proposed subdivision
371 is located.

372

373 F. Utility and drainage easements.

374

375 1. Utility planning and coordination. To ensure that adequate and properly designed utility
376 easements are provided, developers shall consult with City staff and other appropriate
377 personnel of public utility authorities providing gas, electricity, telephone, water, sewer, or
378 other services of a similar nature before and during the planning and preparation of a
379 Preliminary Subdivision Plan.

380

381 2. Width and location. A 10' public utility easement shall be provided across the front of all lots
382 or parcels and shall be provided along each side of any street right of way or access easement.
383 Where necessary or advisable in the opinion of the City, similar easements shall be provided
384 alongside lot lines or across lots. Easement design should provide clear and orderly alignments
385 from one block to the next and from one development to the next. The easement system
386 should be continuous and well aligned to permit the efficient installation of utility service lines.

387

388 3. Underground wiring and installation. Developers shall contact overhead public utility
389 authorities in the early stages of subdivision planning to determine the procedures for
390 negotiating contracts for all underground utility service.

391

392 4. Storm drainage. Drainage easements shall be sized appropriately for the installation and
393 maintenance of drainage improvements necessary for proper drainage within or through a
394 subdivision.

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396 G. Street lights. As established in the City of Cape Coral Engineering Design Standards.

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LAND DEVELOPMENT CODE
ARTICLE 10 - SUBDIVISIONS**

Chapter 1. Subdivisions

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1. No subdivision shall be platted or recorded, no lot shall be sold, and no building or development permit be issued unless the subdivision meets all applicable laws of the state, this code, and has been approved by the City in accordance with the requirements of this Article.
2. This section shall not apply to any land forming part of a subdivision created and recorded prior to effective date of the ordinance from which this article is derived, but it shall apply to any re-subdividing (replats) of previously approved subdivisions and all new subdivisions.
3. It is not intended by the provisions of these regulations to repeal, abrogate, annul, or in any way impair or interfere with private restrictions placed upon property by deed, covenant, or private agreement, except that where this article imposes higher standards than imposed by such deeds, covenants, or private agreements then the provisions of this article shall apply. The City shall not be responsible for enforcement of such deeds, covenants, or agreements.

B. Unless otherwise exempt from this Section or approved as a lot split, all subdivision of land is subject to a three-step review process consisting of:

1. Preliminary Subdivision Plan (PSP) approval;
2. Subdivision Construction Plan (SCP) approval; and
3. Plat approval and recording.

C. PSP approval is optional for lot splits and those projects in compliance with zoning regulations. SCP approval is required prior to Plat approval.

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A. All division of land in the City shall occur only as a new subdivision plat, a replat, or a lot split. The requirements for lot splits are set forth in Article 3, Chapter 3, Section 3.3.4.

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69 Circuit Court within 20 business days of receiving the approved plat from the City.
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71 K. Employment of engineers, surveyors, and other design consultants. A professional engineer licensed
72 in the State of Florida shall prepare the respective plans to be included in all applications for approval.
73 The engineer shall design all required improvements such as streets, drainage systems, water and
74 sewage facilities, etc. Plats shall be prepared by a professional surveyor and mapper licensed in the
75 State of Florida. All plans, drawings, reports, and calculations shall be prepared, signed, and sealed by
76 the appropriate licensed professional, such as engineers, architects, landscape architects, land
77 surveyors, and attorneys registered in the state. Other specialized consultants, such as environmental
78 consultants, structural engineers, archaeologists, etc., may be required to assist in the preparation of
79 the plans, drawings, reports, and other documents required as application submittals.
80
81 L. It shall be unlawful for the owner or agent of the owner of any land in the City to transfer, sell, or
82 convey land by reference to, exhibition of, or other use of a plat of a subdivision of such land without
83 having recorded an approved plat with the Lee County Clerk as required herein. If such unlawful use
84 is made of a plat before it is properly approved and recorded, the owner or agent shall be guilty of a
85 misdemeanor of the first degree, punishable as provided in Florida Statutes 665.083 or Florida
86 Statutes 775.082. Provided, however, that nothing herein shall affect the validity of transfers on sales
87 of interests in property.
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89 **Section 10.1.4 Preliminary Subdivision Plan Approval.**
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99 1. Applications for a Preliminary Subdivision Plan approval are reviewed in the same manner as
100 administrative approvals, as established in Article 3 of this Code.
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102 2. All applications must be prepared by a Florida registered professional engineer and shall be
103 submitted on forms provided by the Director.
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105 **C. Expiration.** The PSP approval shall expire and be of no further force and effect if a completed
106 application for SCP approval is not filed within two years of PSP approval. After expiration of
107 two years, the applicant will be required to re-submit the PSP for review and approval as set forth in
108 this Article. Applicants may apply for an extension prior to the expiration date. The applicant shall
109 demonstrate good cause for the extension. The Community Development Director may extend the
110 approval period up to twelve (12) months if the applicant has progressed in good faith toward the
111 implementation of the subdivision. Subdivisions approved in conjunction with a PUD shall be
112 governed by the Master Concept Plan (MCP)(and any, phasing, conditions, or requirements of the
113 PUD.
114

115 **Section 10.1.5 Subdivision Construction Plan Approval.**
116

117 **A. Application required.** The applicant shall submit Subdivision Construction Plans for the required
118 subdivision improvements in compliance with the PSP approval or a PUD MCP. No construction shall
119 commence until the applicant has received requisite design approvals, permits, and complied with
120 applicable provisions of this article.
121

122 **B. Timing.** Applications for SCP approval must be submitted within two years of City approval of the PSP.
123 Applications for approval of subsequent phases, if any, shall occur within twelve (12) months of the
124 issuance of a certification of completion of the previous phase. Failure to submit for SCP approval
125 within a specified amount of time shall require reapplication under the PSP requirements of this
126 Article. Applicants may not apply for SCP approval for any portion of the subdivision that is not to be
127 constructed within the following twelve (24) months. Failure to make application for SCP approval
128 within required time periods may result in revocation of a Preliminary Subdivision Plan, unless the
129 applicant has applied for an extension from the Community Development Director prior to the lapse.
130 The request for the extension must be made prior to the expiration date. The applicant shall
131 demonstrate good cause for the extension. The Community Development Director may extend the
132 prescribed time period up to twelve (12) months if the applicant has progressed in good faith toward
133 the implementation of the PSP.
134

135 **C. Review Process.** Application review and approval follows the administrative review procedure as
136 established in Sections 3.1.4 through 3.1.8 of Article 3. Specifically, SCP's are reviewed in accordance
137 with Section 3.3.7.
138

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- 139 D. Approval of the SCP. Upon approval of the SCP the developer may proceed with construction in
140 accordance with Section 3.3.7. or the developer may complete the Plat review process for recording
141 the Plat.
142
- 143 E. When the developer elects to install the subdivision improvements prior to recording of the plat, a
144 Certificate of Completion for the improvements must be obtained in accordance with Section 3.3.7.,
145 prior recoding the plat. The final plat shall not be scheduled for City Council approval prior to receipt
146 of the Certificate of Completion.
147
- 148 F. When the developer intends to record the plat prior to installation of the required improvements the
149 developer shall provide assurance of completion of the improvements as approved in the SCP.
150
- 151 1. Assurance of completion of improvements. Assurance of completion of the subdivision
152 improvements as specified below will be required for all on and off-site improvements, required
153 to support the subdivision. Assurance of completion of the improvements will be required prior
154 to scheduling the plat for City Council approval. Those subdivision improvements that have been
155 constructed, inspected, and approved by the Development Services Manger through the issuance
156 of a Certificate of Completion may be excluded from the financial assurance provided.
157
- 158 2. Surety or cash performance bond. Security in the form of a surety or cash performance bond must
159 be posted with the Community Development Department and made payable to the City in an
160 amount equal to 110 percent of the full cost of installing the required improvements approved by
161 the City. If the proposed improvement will not be constructed within one year of issuance of the
162 subdivision infrastructure permit, the amount of the surety or cash performance bond must be
163 increased by ten percent compounded for each year of the life of the surety or bond. Alternatively,
164 the surety or cash performance bond may be renewed annually at 110 percent of the cost of
165 completing the remaining required improvements if approved by the Director. Prior to
166 acceptance, bonds must be reviewed and approved by the City Attorney's Office. Surety
167 instruments will be reviewed and approved in accord with the provisions set forth in City of Cape
168 Coral Technical Requirements for Plat Approval.
169
- 170 3. Other types of security. The Director may accept letters of credit or escrow account agreements
171 or other forms of security provided that the reasons for not obtaining the bond are stated and
172 the City Attorney approves the document. Review and approval of surety instruments will be in
173 accord with the guidelines set forth in City of Cape Coral Technical Requirements for Plat
174 Approval.
175
- 176 G. Engineers Opinion of Probable Construction Costs. Cost opinions prepared to determine the amount
177 of the financial surety shall be prepared in accordance with Article 3 of this Code and shall also include
178 the cost of setting all permanent control points (PCPs) required by Section 10.1.7. of this Code.
179
- 180 H. Phasing. The SCP may contain phases as provided on the PSP or MCP. Each phase of a subdivision
181 shall install all required improvements to support that phase and provide continuation of
182 improvements as may be required from previous phases and for future phases. No phase shall be
183 approved if it is dependent on a future unconstructed phase of the subdivision.
184

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- 185 I. Applicant's failure to complete required improvements.
186
187 1. Failure of applicant to complete required improvements. When a plat has been recorded and the
188 applicant fails to complete the required improvements as required by this article, the City shall
189 require the completion of the required improvements under the financial assurance provided by
190 the Developer. In such case, the City shall call upon the financial surety to secure satisfactory
191 completion of the required improvements. Legal notice of such action shall be deemed to have
192 been duly served upon demand of the Director via certified mail return receipt requested.
193
194 2. In cases where plat has not been recorded. Where an applicant has elected to install the required
195 improvements prior to recording of the plat and fails to complete such improvements within the
196 time limitations of this article, all approvals of the subdivision shall be null and void. No reference
197 shall be made to the plat with respect to the sale of lots or issuance of building permits, unless
198 and until the Developer submits a new application for SCP and Plat approval.
199

200 **Section 10.1.6 Plat Approval.**

- 201
202 A. Plat approval procedures. Plats must be prepared in accordance with Chapter 177 Part 1 of the Florida
203 Statutes, and the City of Cape Coral Technical Requirements for Plat Approval, which are hereby
204 incorporated by reference. The preliminary plat must be submitted during the SCP review. SCP
205 approval will not be granted prior to approval of the preliminary plat. The Final Plat shall incorporate
206 all changes or modifications resulting from the review of the SCP and any remaining conditions or
207 requirements of the PSP or MCP approval.
208
209 B. Review Process. Application review and approval follows the administrative review procedure as
210 established in Article 3 of this Code.
211
212 C. Supplemental information required for plat review.
213
214 1. Operation and maintenance covenants. Where applicable, a copy of the covenants used for the
215 maintenance and operation of the infrastructure improvements required by this Code including
216 private streets and adjacent drainage, drainage and storm water management systems, utilities,
217 public water and sewage systems, on-site bikeways, on-site pedestrian ways, open space, parks,
218 recreation areas, and buffers. These documents must meet the criteria set forth in the City of
219 Cape Coral Technical Requirements for Plat Approval.
220
221 2. Articles of incorporation and bylaws or other legal documents for assignment of maintenance.
222 The developer must submit a copy of the legal documents creating the legal mechanism to ensure
223 that the drainage system, on-site bikeways, on-site pedestrian ways, roadways and rights-of-way
224 are continuously maintained. These documents must meet the requirements set forth in the City
225 of Cape Coral Technical Requirements for Plat Approval.
226
227 D. After the final plat has been approved and certified by the Community Development Director, the City
228 Surveyor, and the City Attorney that it complies with all applicable requirements of this Code, the
229 Director shall schedule the Plat for acceptance by City Council. The plat will be scheduled as a consent
230 agenda item on an upcoming City Council meeting. Upon City Council approval and acceptance of the

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231 plat, the Mayor and City Clerk shall indicate such approval on the final plat by signing the certificate
232 of approval for recording. The Director will notify the developer when the approved Plat has been
233 signed and ready for recording.
234

235 E. Revisions after final plat approval by City Council and prior to recordation.
236

237 1. Recording information for the property or home owner's association documents may be added
238 to the plat at the time of recording of the documents.
239

240 2. Any other changes, erasures, modifications, or revisions to an approved plat prior to recordation
241 may only be made by the Community Development Director to correct scrivener's errors. No
242 such request shall be considered unless made by the preparer of the plat.
243

244 3. No other changes, erasures, modifications, or revisions may be made to an approved final plat
245 prior to recordation unless a new application and fee are submitted for review and approval.
246

247 F. Approval of the Plat by the City shall not constitute acceptance by the City of the dedication of any
248 public street, other public way, easement, or improvement or the responsibility to construct or
249 maintain any improvements unless so indicated in the dedication on the plat.
250

251 G. Recording. The approved plat shall be recorded with Lee County Clerk of Circuit Court within twenty
252 (20) days of receiving the approved plat from the City. After recordation of the plat, the
253 developer shall provide to the Community Development Director a full size certified copy of the
254 recorded plat.
255

256 H. Building permits. No building permits for residential or residential accessory structures shall be issued
257 until the final plat has been recorded and all subdivision improvements have either been completed or
258 sufficient assurance of completion has been reviewed and approved by the City Attorney.
259

260 I. Phasing. The applicant may construct the proposed development and record plats for any phase
261 approved on the PSP or MCP. The phases shall have been specified on the approved Preliminary
262 Subdivision Plan and shall be of such a size and design that all phases completed at any time can exist
263 independently as a subdivision in complete conformity with the requirements of this article. Any
264 change in the sequence of phases must receive prior approval by the Development Services Manager.
265 If PSP or MCP is phased, the applicant shall have the option of platting one or more of the
266 development phases in a single plat in conformity with all the procedures and requirements of this
267 article.
268

269 **Section 10.1.7 Minimum Design Standards.**
270

271 A. Monumentation. Monuments must be installed in accordance with F.S. Ch. 177.091(9).
272

273 1. Permanent reference monuments. Permanent reference monuments (PRMs) must be placed on
274 the boundary of all subdivisions as required by F.S. Ch. 177, as amended, and approved by a
275 licensed, registered state professional surveyor and mapper.
276

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- 277 2. Monuments must be set in the ground so that the top is flush or no more than one-half foot
278 below the existing ground. Subsurface PRMs must be exposed for inspection when a plat is
279 submitted for review. If development of the subdivision occurs after a plat is reviewed, the PRMs
280 must be raised or lowered to be flush or no more than one-half foot below the finished ground.
281 Subsurface PRMs must be exposed for inspection at the time of final inspection of the
282 development.
283
- 284 B. Permanent control points. Permanent control points (PCPs) must be installed in accordance with F.S.
285 Ch. 177. When a plat is recorded prior to construction of the subdivision improvements, the PCPs
286 must be set following completion of construction. The surveyor must certify that the PCPs have been
287 set and must record the certification in the official record books of the County.
288
- 289 C. Streets.
290
- 291 1. The widths and locations of all public or private streets in a proposed subdivision shall Conform
292 to the City of Cape Coral Engineering Design Standards.
293
- 294 2. Street extensions.
295
- 296 a. The street layout of the proposed subdivision shall provide for the continuation or
297 projection of streets already existing in areas adjacent to the area being subdivided unless
298 such continuation or extension is for specific reasons of topography or design.
299
- 300 b. Where it is necessary for public safety to provide street access to adjoining properties,
301 proposed streets shall be extended by dedication to the boundaries of such properties.
302 Where it is determined necessary for public safety, dead-end streets shall be provided
303 with a temporary turnaround having a radius as specified in the City of Cape Coral
304 Engineering Design Standards.
305
- 306 c. The street system for the proposed subdivision shall provide for extending existing streets
307 at the same or greater width, but in no case, shall a street extension be of less width than
308 the minimum width required by the City of Cape Coral Engineering Design Standards for a
309 street in its category.
310
- 311 3. Dedication of right-of-way for new streets.
312
- 313 a. The dedication of rights-of-way for new streets, measured from lot line to lot line, shall
314 meet the standards specified in the City of Cape Coral Engineering Design Standards.
315
- 316 b. Dedication of one-half of the rights-of-way for proposed streets along the boundaries of
317 land proposed for subdivision shall be prohibited.
318
- 319 4. Dedication of right-of-way for existing streets.
320

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- 321 a. Subdivisions platted along existing streets shall dedicate additional rights-of-way if
322 necessary to meet the minimum street width requirements for new streets set forth in the
323 City of Cape Coral Engineering Design Standards.
324
- 325 b. The entire minimum right-of-way width shall be dedicated where the subdivision is on
326 both sides of an existing street. When the subdivision is located on only one side of an
327 existing street, one-half of the required right-of-way width, measured from the center line
328 of the existing right-of-way or street, as appropriate, shall be dedicated.
329
- 330 5. Intersections. Intersections shall be designed and spaced as set forth in the City of Cape Coral
331 Engineering Design Standards.
332
- 333 6. Curves in streets; horizontal and vertical. All curves in streets shall be designed and
334 constructed as set forth in the City of Cape Coral Engineering Design Standards.
335
- 336 7. Street grades and elevations. Street grades and elevations shall conform to the City of Cape
337 Coral Engineering Design Standards.
338
- 339 8. Frontage access streets. Where the proposed subdivision abuts upon or contains an existing
340 or proposed arterial street or highway on which traffic volumes and vehicular speeds warrant
341 special safety considerations, the City shall require that frontage access streets be provided in
342 order that no lots will front on such existing or proposed arterial street or highway.
343
- 344 9. Street jogs. Street jogs must be as set forth in the City of Cape Coral Engineering Design
345 Standards.
346
- 347 10. Dead-end streets (cul-de-sacs). Cul-de-sacs or dead-end streets must be designed to conform
348 to the City of Cape Coral Engineering Design Standards.
349
- 350 11. Street names. Proposed streets which are in alignment with other already existing and named
351 streets shall bear the names of such existing streets. The name of a proposed street which is
352 not in alignment with an existing street shall not duplicate the name of any existing street.
353
- 354 12. Alleys. Alleys may be provided to give access to the rear of all lots used for commercial and
355 industrial purposes. Alleys shall not be provided in residential blocks except in the SC district
356 or in cases where the developer produces evidence of the need for alleys which is satisfactory
357 to the City.
358
- 359 D. Blocks. Block lengths shall not exceed 1,200 feet or be less than 400 feet, except as approved by
360 the Director.
361
- 362 E. Lots.
363
- 364 1. Arrangement. Each lot in a subdivision shall be at right angles to straight street lines and radial
365 to curved street lines.
366

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367 2. Dimension and area regulations. Dimension and area regulations for all lots proposed within
368 the subdivision, including the size, shape, width, depth, area, building setback lines, corner lot
369 regulations, yard requirements, off-street parking areas, and minimum lot frontage on public
370 streets shall comply with the zoning district requirements in which the proposed subdivision
371 is located.

372

373 F. Utility and drainage easements.

374

375 1. Utility planning and coordination. To ensure that adequate and properly designed utility
376 easements are provided, developers shall consult with City staff and other appropriate
377 personnel of public utility authorities providing gas, electricity, telephone, water, sewer, or
378 other services of a similar nature before and during the planning and preparation of a
379 Preliminary Subdivision Plan.

380

381 2. Width and location. A 10' public utility easement shall be provided across the front of all lots
382 or parcels and shall be provided along each side of any street right of way or access easement.
383 Where necessary or advisable in the opinion of the City, similar easements shall be provided
384 alongside lot lines or across lots. Easement design should provide clear and orderly alignments
385 from one block to the next and from one development to the next. The easement system
386 should be continuous and well aligned to permit the efficient installation of utility service lines.

387

388 3. Underground wiring and installation. Developers shall contact overhead public utility
389 authorities in the early stages of subdivision planning to determine the procedures for
390 negotiating contracts for all underground utility service.

391

392 4. Storm drainage. Drainage easements shall be sized appropriately for the installation and
393 maintenance of drainage improvements necessary for proper drainage within or through a
394 subdivision.

395

396 G. Street lights. As established in the City of Cape Coral Engineering Design Standards.

397

398

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ARTICLE 11 – DEFINITIONS**

1 **CHAPTER 1. GENERAL PROVISIONS**

2
3 **Section 11.1. Purpose and Intent**

- 4
5 A. This chapter is intended to define terms used in the Land Development Code (LDC) and provide
6 clarity in the LDC.
7
8 B. Unless the context clearly indicates a different meaning, the following definitions shall be used to
9 interpret the provisions of the LDC.
10
11 C. Words whose meanings are self-evident as used in this Code are not defined here. Undefined terms
12 that are commonly used may be defined using a dictionary. Words used in the present tense shall
13 include the future; the singular includes the plural, and vice versa.
14
15 D. Certain definitions may not be in alphabetical order and may be organized according to a common
16 term or subject heading.
17
18 E. The definitions in the Article may be different from the definitions used in the City of Cape Coral
19 Code of Ordinances.
20

21 **CHAPTER 2. GENERAL DEFINITIONS**

22
23 Abandoned Structure, is any structure which has ceased to be used for its designed and intended
24 purpose.
25

26 Abandonment, is the relinquishment or cessation of the use of property by the owner or lessee without
27 any intention of transferring rights to the property to another owner or of resuming the use of the
28 property. Often in reference to an easement or a right-of-way.
29

30 Acre, is a land area of 43,560 square feet.
31

32 Access, is the place, means, or way by which vehicles or pedestrians obtain ingress and egress to a
33 property or use.
34

35 Access Drive, is a driving surface leading from a right-of-way to a parking area.
36

37 Accessory Dwelling Unit (ADU), is a separate housekeeping unit from the with a separate entrance,
38 kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an
39 existing single-family structure.
40

41 Accessory Building or Structure, a subordinate building or structure, the use of which is customarily
42 incidental the main building or to the main use of the land and which is on the same site as the main
43 building or use.
44

45 Accessory Use, is a use that is incidental to and subordinate to the main building or use of land and that
46 is on the same lot and under the same ownership in all respects.

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- 47
48 Addition, any construction that increases the size of a building in terms of site coverage, height, length,
49 width, or gross floor area.
50
51 Adjoining or Abutting, means two properties share at least one common point or property line.
52
53 Adjacent, means two properties that are separated by a public right of way, canal, or alley.
54
55 Adult Day Care Center means any building or buildings, operated for profit or not, which provides
56 daytime, basic care services to three or more persons who are 18 years of age or older, who are not
57 related to the owner or operator by blood or marriage, and who require such services.
58
59 ~~Adult Entertainment Establishment or Use, is a use which is distinguished or characterized by an~~
60 ~~emphasis on materials depicting, describing or relating to specified sexual activities or specified~~
61 ~~anatomical areas either by observation or participation by the patrons or employees of that use.~~
62 ~~Specified uses are found in F.S. Ch. 847.001 and include, adult bookstores, adult theaters, unlicensed~~
63 ~~massage establishments, and adult special cabarets.~~
64
65 Affordable Housing, is housing with a sale or rental cost, including taxes and utilities, of 30 percent or
66 less of the total monthly household income of low income households.
67
68 Agricultural Building, Structures intended primarily or exclusively for support of an agricultural
69 function, including barns, silos, water towers, windmills, and greenhouses.
70
71 Agricultural Land, land used actively for the production of food, fiber, or livestock.
72
73 Agricultural Uses, means farming, including plowing, tillage, cropping, seeding, cultivating, or harvesting
74 for the production of food and fiber products (except commercial logging and timber harvesting
75 operations); the grazing or raising of livestock (except in feed yards); aquaculture; sod production;
76 orchards or groves; Christmas trees; nurseries; and the cultivation of products as part of a recognized
77 commercial enterprise.
78
79 Alley, a right-of-way that affords a secondary means of vehicular access to abutting properties.
80
81 Alteration, means any enlargement, addition, relocation, remodel, change in number of units,
82 development, or change to a facility, other than painting and other changes to finishes.
83
84 Ambient, is the surrounding level of light, noise, air, or odor.
85
86 Amplified Sound, means sound augmented by any electronic or other means that increases the sound
87 level or volume. Public background sound or amplified sound caused by the police or fire departments
88 of the city in the performance of their official duties shall not be considered amplified sound.
89
90 Animal Kennel, An establishment where more than four dogs or cats (except litters of animals of not
91 more than six months of age) are kept, raised, cared for or boarded, for a fee.
92

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93 Animal Shelter, any place so designed to provide for the temporary accommodation of five or more
94 stray common household pets until appropriate disposition of such animals can be made.
95

96 Arbor, is a n structure on which plants and vines can grow.
97

98 Arcade, Architectural, means a succession of arches supported by columns or piers, or a covered
99 walkway enclosed by a line of arches on one or both sides.



100

101 Architectural Feature, any prominent or characteristic part of a building, including windows, columns,
102 awnings, marquee, façade, or fascia.
103

104 Art, Public, is any visual work of art displayed open to the public view on public or private property
105 which does not contain characteristics of an advertisement for a business.
106

107 Assisted Living Facility (ALF) or Nursing Home, means any building, section or distinct part of a
108 building, private home, boarding home, home for the aged, or other residential facility, whether
109 operated for profit or not, which undertakes through its ownership or management to provide
110 housing, meals, and one or more personal services for a period exceeding 24 hours to one or more
111 adults who are not relatives of the owner or administrator.
112

113 Auditorium or Assembly Hall, a building with facilities to accommodate groups of people.
114

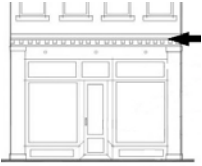
115 Awning, a roof-like cover, often of fabric, metal, or glass designed and intended for protection from the
116 weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a
117 window, walk, door.
118



119

120
121 Banding, means a projection of masonry or similar material around a building or part of a building,
122 which is attached to the building.
123

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124

125

126 Bar, is an area or establishment primarily devoted to the serving of alcoholic beverages and in which the
127 service of food is only incidental to the consumption of such beverages.
128

129 Basement, the portion of a building having its floor subgrade (below ground level) on all sides.
130

131 Bathroom, is a room in a building containing, at a minimum, a toilet and a sink.
132

133 Bed and Breakfast, means a transient lodging establishment, generally in a single-family dwelling or
134 detached guesthouses, primarily engaged in providing overnight or otherwise temporary lodging for the
135 general public and may provide meals for compensation.
136

137 Berm, A mound or earthen ridge placed above natural or existing grade for the purpose of shielding,
138 screening, mitigating impacts from or otherwise separating areas of dissimilar use, to provide visual
139 interest, accommodate landscape improvements, or control the direction and flow of water.
140

141 Best Management Practices (BMP), is the combination of conservation measures, structures, or
142 management practices that reduces or avoids adverse impacts of development on adjoining site's land,
143 water or waterways, and waterbodies.
144

145 Bike Lane, is a corridor expressly reserved for bicycles.
146

147 Bio-Retention Area, A shallow planted depression designed to retain or detain stormwater before
148 infiltration or discharge. Plants used in bio-retention areas must be able to survive without fertilizer or
149 other artificial means.
150

151 Block, is land typically surrounded by streets or other transportation or utility rights-of-way, or by
152 physical barriers such as bodies of water or public open spaces. Block may also mean a group of parcels
153 within a geographic area.
154

155 Boat, is a vessel designed for operation as a watercraft propelled by oars, sails, or internal combustion
156 engine(s). A boat shall not be considered as a recreational vehicle even though may have facilities for
157 temporary living quarters.
158

159 Borrow Pit, are excavations created by the surface mining of rock, unconsolidated geologic deposits, or
160 soil to provide material (borrow) for fill elsewhere.
161

162 Brewery, is a facility with a capacity to manufacture more than 5,000 barrels of beer or other similar
163 beverages a year.
164

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165 **Brewpub**, A restaurant or bar with facilities that produces beer or wine for on-site consumption and
166 retail sale to restaurant, bar, or nightclub patrons. Nonalcoholic beverages may also be produced for
167 on-site consumption and retail sale. A brewpub differs from an artisan brewery in that a greater
168 percentage of beer or wine produced at a brewpub is generally consumed on the premises.
169

170 **Buffer**, means open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to
171 physically and visually separate one use or property from another.
172

173 **Build-to Line**, locations where a proposed development shall locate the linear footage of the building's
174 edge, thus ensuring a uniform (or more or less even) building façade line on the street. Build-to lines
175 may correspond to the property line or may be offset from the property line.
176

177 **Buildable Area**, is that portion of a lot exclusive of the required setbacks or open spaces upon which
178 improvements are permitted.
179

180 **Building, Attached**, is a building which has at least part of a wall in common with another building, or
181 which is connected to another building by a roof.
182

183 **Building Rear**, means a building wall that does not face a public street, a private access way, or a
184 common open space. A building may have more than one building rear.
185

186 **Building Front**, means a building wall that faces a public street, a private street, or a common open
187 space. A building may have more than one building front.
188

189 **Building, Primary or Principal**, is a building in which the primary use of the lot, on which the building is
190 located, is conducted.
191

192 **Bulkhead**, means a shoreline stabilization structure including riprap or a seawall.
193

194 **Business Front Foot**, means the lineal distance of the building space occupied by the particular business
195 measured on a straight-line parallel to the street. If a building fronts on two (2) or more streets, the
196 property owner shall be given the option of selecting one (1) street frontage for the purpose of computing
197 allowable sign area. Where a business does not parallel a street, the front foot shall be measured along
198 the exterior of the building space occupied by the particular business.
199

200 **By-right**, refers to uses that are permitted without special conditions or a public hearing.
201

202 **Canopy**, a roof-like structure serving the purpose of protecting pedestrians from rain and sun, which
203 may project from a building or be free standing.



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205 Caliper – Palm, the diameter of the palm trunk taken at the widest portion, measured between one
206 foot and three feet from the ground.
207

208 Caliper – Tree, the measurement of the average of the largest diameter of a tree, and that
209 perpendicular to it, measured 12 inches above the ground.
210

211 Cemetery, is land used or dedicated to the burial of the dead, including crematoriums, mausoleums,
212 necessary sales, and maintenance facilities. Mortuaries shall be included when operated within the
213 boundary of such cemetery.
214

215 Certificate of Completion. Documentation that a structure, system(what kind of system?), site
216 development or subdivision infrastructure is complete and for certain types of permits is released for
217 use and may be connected to a utility system.
218

219 Certificate of Occupancy, is the official certification that a premises may be used or occupied pursuant to
220 the State Building Codes.
221

222 Childcare Facility, includes any child care center or child care arrangement which provides child care
223 for more than five children unrelated to the operator and which receives a payment, fee, or grant for
224 any of the children receiving care, wherever operated, and whether operated for profit.
225

226 Civic Building, is a building specifically designed for a civic function. Buildings and structures for public
227 or private assembly, including places of worship and schools, shall be considered civic buildings.
228 Clearing of Vegetation, means removal of plants and or topsoil and vegetative materials in
229 preparation for development, but not including mowing and cutting of brush for maintenance, the
230 removal of dead or diseased plants or the removal of a single tree on a developed parcel.
231

232 Clear Trunk – Palm, A measurement from the soil line to a point on the trunk where the trunk
233 caliper begins to taper abruptly, as per "Grades and Standards for Nursery Plants" published by the
234 State Department of Agriculture and Consumer Services, Part 2.
235

236 Colonnade, a series of columns that are set at regular intervals and that support the base of an
237 overhead structure.
238
239
240

241 Community Center, A building to be used as a place of meeting or social recreation that is open to
242 the public. Community centers may also include areas of outdoor recreation such as playgrounds or
243 athletic courts.
244

245 Community Garden, is a private or public facility for cultivation of fruits, flowers, vegetables, or
246 ornamental plants by more than one person or family.
247

248 Community Residential Home, means a dwelling unit licensed to serve residents who are clients of
249 the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of
250 Juvenile Justice, or the Department of Children and Families or licensed by the Agency for Health

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251 Care Administration which provides a living environment for 7 to 14 unrelated residents who
252 operate as the functional equivalent of a family, including such supervision and care by supportive
253 staff as may be necessary to meet the physical, emotional, and social needs of the residents.

254
255 Concurrency, necessary public facilities and services to main the adopted level of service standards
256 are available when the impacts of a development occur.

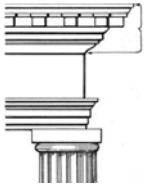
257
258 Conditional Use, are uses which are generally appropriate in a zoning district but have certain additional
259 requirements to ensure the use is compatible. Conditional uses may be approved administratively as long
260 as the required conditions are met and maintained.

261
262 Continuing Care Facility, is a center which provides independent household units as well as assisted
263 living units to allow a resident to age within one facility or community.

264
265 Construction Staging Area, An area used on a temporary basis for the storage of materials and
266 supplies used in the construction of a project for a limited period of time.

267
268 Convenience Store, is any retail establishment offering for sale a limited line of groceries and household
269 items intended for the convenience of the neighborhood, with or without sale of fuel.

270
271 Cornice, means a horizontal, ornamental molding that crowns a building or element of a building such as
272 a window or doorway.



273
274
275 Corrugated Metal,

276
277 Craft Brewery, Distillery, or Winery, is a use that brews beer, distills spirituous beverages, or produces
278 wine and similar beverages on a small scale and whose annual production of beer is capped by the
279 City of Cape Coral in contrast to a full-fledged brewery that may produce an unlimited volume of beer.
280 These establishments may include a tasting room and retail space to sell beer produced on the
281 premises, as well as beer, spirits and wine produced elsewhere, along with related retail items and
282 food.

283
284 Crime Prevention Through Environmental Design (CPTED), is a multi-disciplinary approach to
285 deterring criminal behavior through the design of the built environment. Specifically, altering the
286 physical design of the communities in which humans reside and congregate in order to deter criminal
287 activity is the main goal of CPTED.

288
289 Cul-de-sac, is a dead-end street terminated at the closed end by a circular vehicular turn-around.
290

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291 Cultural and Civic Facilities, Facilities of historic educational or cultural interest such as botanical
292 gardens, aquariums, libraries, art galleries, or museums.

293
294 Cupola, an ornamental structure placed above a larger roof.



295
296 Deck, is an open and roofless platform that adjoins a house and is supported by a means other than the
297 principal structure.

298
299 Density, the number of dwelling units permitted per acre of land.

300
301 Developer, is the person who is improving a parcel of land and who may or may not be the owner of
302 that property.

303
304 Development, is any human-caused change to improved or unimproved real estate that requires a
305 permit or approval from any agency of the city or county, including but not limited to, buildings or other
306 structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of
307 materials.

308
309 Development Approval, is any written authorization from the city which authorizes the commencement
310 of a development.

311
312 Diameter at Breast Height (DBH), Diameter of the tree when measured four and one-half feet above the
313 ground.

314
315 Distribution Line, The electric lines that deliver medium voltage electricity from the substation to an
316 overhead or underground transformer that ultimately serves the consumer.

317
318 Divider Median, A landscaped strip between abutting rows of parking spaces.

319
320
321
322 Dock, any structure, otherwise known as a pier, wharf, or loading platform, extending into the water
323 from a seawall or bank and which may provide berthing for marine vessels.

324
325 Dormitory, is a building intended or used principally for sleeping accommodations where such building is
326 related to an educational or public institution, including religious institutions.

327
328 Dumpster Enclosure, the covered containers supplied by the city refuse collection franchisee that are
329 designed and intended to be mechanically dumped into a packer-type sanitation vehicle, regardless of
330 whether such containers are used for the collection and/or disposal of solid waste or other refuse or for
331 the collection and/or disposal of recycling materials, as well as covered containers that are designed and
332 intended to be used for compaction of materials such as cardboard boxes

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Dwelling Unit, ~~A room or rooms connected together, which could constitute a separate, independent housekeeping establishment for a family, for owner occupancy, or for rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure. Dwelling Units must contain at a minimum one sleeping room, one bathroom, and one kitchen, but shall not contain more than one kitchen, or other indoor portion of the structure with a functioning range or oven. The term Dwelling Unit shall not include rooms in hotels, motels or institutional facilities, one or more rooms constituting all or part of a dwelling which are used as living quarters for one family and contain a bathroom and kitchen facilities.~~

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Dwelling, Duplex, is a structure designed to accommodate two dwelling units, each of which has direct access to the outside.

Dwelling, Multifamily, is a building containing three or more individual dwellings with separate cooking and toilet facilities for each dwelling.

Dwelling, Single-Family Detached, is a dwelling unit owned in fee simple and on an individual lot which is not attached to any other dwelling unit by any means.

Dwelling, Single-Family Attached, means a single structure consisting of three or more dwelling units having one or more walls abutting with another dwelling and designed to have all exits open directly to the outside. Each dwelling unit is on a lot with individual ownership.

Easement, a grant by a property owner to the use of land by the public, a corporation, or persons for specific purposes as the construction of utilities, drainage ways, and roadways.

Eave, is the projecting lower edges of a roof overhanging the wall of a building.

Encroachment, is where a structure exists within a required setback, or an area that is designated to have no structures.

Entertainment, Indoor, means active or passive uses conducted within an enclosed building, these include but are not limited to: motion picture theaters, concert or music halls, billiards, arcades, and bowling.

Entertainment, Outdoor, means active or passive uses conducted in open or partially enclosed or screened entertainment complex. Typical uses include but are not limited to: sports arenas, motor vehicle or animal racing facilities, and outdoor amusement parks.

Erosion, is the removal of soil through water or wind action.

Essential Services, the erection, construction, alteration or maintenance (by a public or private utility company for the purpose of furnishing adequate services for the public health, safety, or general welfare) of electrical and communication cables, poles and wires, water and sewer collection, transmission, or distribution mains, drains and pipes, including fire hydrants. This definition shall not be interpreted to include buildings, structures, or uses listed as essential service facilities.

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379
380 Essential Service Facilities, buildings or above ground structures (exceeding 27 cubic feet in volume)
381 required to provide essential services including electricity; telephone, cable TV, gas, water, sewage,
382 solid waste, and resource recovery.
383
384 Excavating or Filling, defined as the removal or placement of more than 100 cubic yards of earth or
385 the alteration of the elevation of more than 1,250 square feet of land area more than two feet.
386
387 Excavation, An operation utilizing any tools, equipment or explosives for the purpose of moving,
388 removing or otherwise displacing or distributing earth, rock or other materials in or on the ground or
389 wrecking, razing, rending, moving or removing any structure or mass of material.
390
391 Exotic, means a species introduced to Florida, purposefully or accidentally, from a natural range
392 outside of Florida.
393
394 Façade, is the exterior elevation of a structure or building as viewed from a single vantage point.
395 Family, any number of persons living together as a single housekeeping unit.
396
397 Family Day Care Home, an occupied residence in which child care is regularly provided for children from
398 at least two unrelated families and which receives a payment, fee, or grant for any of the children
399 receiving care, whether or not operated for profit. Household children under 13 years of age, when on
400 the premises of the family day care home or on a field trip with children enrolled in child care, shall be
401 included in the overall capacity of the licensed home.
402
403 Farmer’s Market, is an occasional or periodic outdoor market where groups of individual sellers offer
404 for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items,
405 and food and beverages.
406
407 Fence, a structure used for enclosing land areas constructed of pickets, boards, rails, chain link, or
408 concrete products which are generally supported by posts and provide privacy, land separation,
409 containment of domestic animals, and restriction of passage.
410
411 Fence, Decorative, means an open mesh fence no higher than two feet, other than chain link or barbed
412 wire, intended to decorate, accent, or frame a feature of the landscape. Ornamental fences are often
413 used to identify a lot corner or lot line, or frame a driveway, walkway, or planting bed.
414 Filling, see Excavating or Filling.
415
416 Flea Market, the sale of used merchandise customarily involving tables or space lease or rented to
417 vendors.
418
419 Flex Space, is commercial space, typically office, workshop, and loading bay area that allows
420 businesses to utilize the space in the manner necessary for their work, most typically light industrial
421 uses. Uses not allowed in flex space include self-storage or general retail stores.
422

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423 Floor, is the top surface of an enclosed area in a building (including basement), i.e., top of slab in
424 concrete slab construction or top of wood flooring in wood frame construction. The term does not
425 include the floor of a garage used solely for parking vehicles.
426

427 Floor Area Ratio (FAR), is the ratio of the proposed amount of commercial or industrial floor area to
428 the total land area shown for non-residential uses on the site.
429

430 Floor Area, Gross, the total area of a building measured by taking the outside dimensions of the building
431 each floor level intended for occupancy and storage.
432

433 Florida Building Code, the family of codes adopted by the Florida Building Commission.
434

435 Florida Friendly Landscaping, is a program developed through the University of Florida which
436 encourages the use of low-maintenance plants and environmentally sustainable practices. A list of
437 Florida Friendly plants can be found in Appendix 5.6.1.B.
438

439 Florida Native, Any plant recognized as occurring naturally in the State of Florida prior to the 1500s, as
440 identified in **Atlas of Florida Vascular Plants by Wunderlin**, R.P., and B. F. Hansen. 2008.
441 (<http://www.plantatlas.usf.edu/>). Institute for Systematic Botany, University of South Florida, Tampa,
442 or other scientific documentation recognized by the city.
443

444 Food Truck, is a temporary food service establishment that is vehicle mounted and/or designed to be
445 readily movable.
446

447 Footcandle, is the unit of measure expressing the quantity of light received on a surface. One
448 footcandle is the illuminance produced by a candle on a surface one foot square from a distance of
449 one foot.
450

451 Frontage, is the face of a building most nearly parallel with the public right-of-way line.
452

453 Frontage Road, is a residential or nonresidential street parallel and adjacent to a major thoroughfare
454 and which provides access to abutting properties with protection from through traffic.
455

456 Garage, an enclosed area that is accessory to the primary residential structure and is designed primarily
457 for the parking and storage of motor vehicles.
458

459 Garage Sale, means the noncommercial sale of privately owned items from residential premises.
460

461 Gazebo, a freestanding, roofed structure usually open on the sides.
462

463 Glare, is lighting entering the eye directly from luminaires or indirectly from reflective surfaces that
464 causes visual discomfort or reduced visibility.
465

466 Grade, the average level of the finished surface of the ground adjacent to the exterior walls of the
467 building.
468

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- 469 Greenhouse, is a building or structure constructed chiefly of glass, glasslike or translucent material,
470 cloth, or lath, which is devoted to the protection or cultivation of flowers or other plants.
471
- 472 Green Roof, a building roof that is partially or completely covered with vegetation and a growing
473 medium, planted over a waterproofing membrane. It may also include additional layers such as a root
474 barrier and drainage and irrigation systems.
475
- 476 Groundcover, any low growing plant, 24 inches in height or less, that can be used to cover areas
477 where sod or turf is not desired or will not grow.
478
- 479 Group Home, a dwelling unit licensed to serve residents who are clients of the Department of Elderly
480 Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department
481 of Children and Family Services or licensed by the Agency for Health Care Administration which provides
482 a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a
483 family, including such supervision and care by supportive staff as may be necessary to meet the physical,
484 emotional, and social needs of the residents.
485
- 486 Habitat, means the physical location or type of environment in which an organism or biological
487 population lives or occurs.
488
- 489 Hardscape, tangible objects and features other than plant materials, including, but not limited to,
490 steps and ramps, fountains and pools, fences, screens, dividers and walls, overhead structures (i.e.
491 trellis), decks, retaining walls, play equipment, benches and planters, drainage structures, lighting,
492 pavement, curbs, and site furnishings.
493
- 494 Hearing Examiner, is a person appointed to conduct public hearings and take action in action
495 proceedings as specified by this code.
496
- 497 Hedge, is any group of shrubs planted in line or in groups that form a compact, dense, living barrier that
498 protects, shields, separates, or demarcates an area from view; any similar plant material, or similar plant
499 material in conjunction with a structure.
500
- 501 Height, the vertical distance measured from the lowest finished floor elevation to the lowest point of
502 the highest horizontal eave or to the highest point of the highest parapet wall, whichever is higher.
503
- 504 Helistop, A heliport, but without ancillary facilities such as parking, waiting room, fueling and
505 maintenance equipment.
506
- 507 Heritage Tree, is a Florida native canopy tree with a 20-inch caliper DBH or larger.
508
- 509 Home Occupation, is an occupation for monetary gain or support conducted by members of a family
510 residing on residential premises, and conducted entirely within the dwelling, provided that no article is
511 sold or offered for sale except such as may be produced or acquired by members of the immediate
512 family residing on the premises. Home occupations shall not be construed to include barbershops,
513 beauty shops, tearooms, restaurants, dress shops, commercial kennels, real estate offices, dance

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514 studios, astrologists/palmists and the like, band instrument instructors, photographic studios, and child
515 care facility for more than five children.
516

517 Hospital, is an institution, licensed by the state department of health, providing primary health services
518 and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury,
519 deformity, and other abnormal physical or mental conditions, and including as an integral part of the
520 institution, related facilities such as laboratories, outpatient facilities, or training facilities.
521

522 Hotel, is an establishment providing, for a fee, sleeping accommodations and customary lodging
523 services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone
524 and desk service. Related ancillary uses may include but shall not be limited to conference and meeting
525 rooms, restaurants, bars, and recreational facilities.
526

527 Household, is the person or persons occupying a dwelling unit.
528

529 Impervious Surface, is any material that substantially reduces or prevents the infiltration of stormwater
530 into the ground. This shall include graveled driveways and parking areas.
531

532 Industry, Heavy, is manufacturing or other enterprises with significant external effects, or which pose
533 significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides,
534 herbicides, or other hazardous materials in the manufacturing or other process.
535

536 Industry, Light, includes research and development activities, the manufacturing, compounding,
537 processing, packaging, storage, assembly, or treatment of finished or semi-finished products from
538 previously prepared materials, which activities are conducted wholly within an enclosed building.
539 Finished or semi-finished products may be temporarily stored outdoors pending shipment.
540

541 Infrastructure, means facilities and services needed to sustain industry, residential, commercial, and all
542 other land-use activities, including water, sewer lines, and other utilities, streets and roads,
543 communications, and public facilities such as fire stations, parks, schools, etc.
544

545 Intensity, is the number of square feet of development per acre, or floor area ratio, by land use type
546 with respect to non-residential land uses.
547

548 Invasive Species, means a species that is non-native to the ecosystem under consideration and whose
549 introduction causes or is likely to cause economic or environmental harm or harm to human health.
550

551 Kitchen, an indoor portion of a structure specifically designed and equipped for the preparation,
552 service and storage of food. The kitchen shall be provided with, at a minimum, a functioning sink,
553 range, oven, and refrigerator.
554

555 Laboratory, Research, is a building or group of buildings in which facilities for scientific research,
556 investigation, testing, or experimentation are. This does not include facilities for the manufacture or
557 sale of products, except as incidental to the main purpose of the laboratory.
558

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559 Land Development Regulations, means the city's zoning, subdivision, building, and other regulations
560 controlling the development of land.
561

562 Landscape Plan, is a plan associated with a subdivision master concept plan, or site development plan,
563 indicating the placement of landscape materials, including specifications, species, quantities, and
564 method of installation.
565

566 Landscaped Area, is an area set aside from structures and parking which is developed with natural
567 materials (i.e. grass, trees, shrubs, vines, hedges, bedding plants, rock) and decorative features,
568 including paving materials, walls, fences, and outdoor furniture.
569

570 Landscaping, is the finishing and adornment of unpaved yard areas. Materials and treatment generally
571 include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment may also
572 include the use of logs, rocks, fountains, water features, and contouring of the earth.
573

574 Lattice, is an ornamental criss-crossed framework, an arrangement of crossing laths or other thin strips
575 of material which allows light and air to pass between the openings.

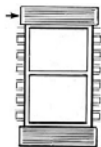


576

577
578 Light Pollution, means any adverse effect of artificial light including, but not limited to, glare, light
579 trespass, skyglow, energy waste, and impacts on the nocturnal environment.
580

581 Lighting, Fully Shielded/Cutoff, means any outdoor light fixture shielded in such a manner that all light
582 emitted by the fixture is projected below the horizontal as determined by a photometric test or certified
583 by the manufacturer.
584

585 Lintel, means a horizontal support of timber, stone, concrete, or steel across the top of a door or
586 window.



587

588 Loading Space, is an off-street space, having a minimum width of 10 feet, length of 30 feet, and height
589 clearance of 14 feet, on the same lot with a building or group of buildings for temporary parking of a
590 commercial vehicle while loading and unloading merchandise or materials.
591

592 Local Planning Agency, is the City of Cape Coral Planning and Zoning Commission when reviewing
593 matters related to the Comprehensive Land Use Plan as specified in F.S. Chapter 160.
594

595 Lot or Lot of Record, is a lot or tract that is part of a recorded subdivision that has been recorded with
596 the county clerk of courts office containing property tax records.

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597
598 Lot Coverage, refer to Section 1-112 of the Land Development Code.
599
600 Lot, Corner, A lot which abuts on two or more intersecting streets at their intersection, but is not to
601 include wing streets at cul-de-sac locations; wing streets at locations where road angles or turns and
602 the wing street is less than 120 feet in length.
603
604 Lot Depth, refer to Section 1-112 of the Land Development Code.
605
606 Lot, Double Frontage, is a lot having frontage on two nonintersecting streets, as distinguished from a
607 corner lot.
608
609 Lot, Flag, is a lot not meeting minimum lot frontage requirements at the street and where access to a
610 right-of-way is provided by means of a long, narrow driveway between abutting lots.
611
612 Lot Lines, are the property lines bounding the lot.
613
614 Lot Width, refer to Section 1-112 of the Land Development Code.
615
616 Low Impact Development (LID), refers to systems and practices that use or mimic natural processes that
617 result in the infiltration, evapotranspiration, or use of stormwater in order to protect water quality and
618 associated aquatic habitat.
619
620 Lowest Floor, the lowest floor of the lowest enclosed area of a building or structure, including
621 basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable
622 solely for vehicle parking, building access or limited storage provided that such enclosure is not built so
623 as to render the structure in violation of the non-elevation requirements of the Florida Building Code
624 or ASCE 24.
625
626 Lumen, is the unit of measure used to quantify the amount of light produced by a lamp or emitted from
627 a luminaire. One footcandle is equal to one lumen per square foot.
628
629 Maintain, means in a condition or state of equivalent quality to that which was approved or required by
630 the city.
631
632 Manufacturing, Heavy, is the manufacturing of products from raw or unprocessed materials, where the
633 finished product may be combustible or explosive. This category shall also include any establishment or
634 facility using large unscreened outdoor structures such as conveyor belt systems, cooling towers, cranes,
635 storage silos, or similar equipment, that cannot be integrated into the building design, or engaging in
636 largescale outdoor storage. Any industrial use that generates noise, odor, vibration, illumination, or
637 particulate that may be offensive or obnoxious adjacent land uses, or requires a significant amount of
638 on-site hazardous chemical storage shall be classified under this land use. This use shall include any
639 packaging of the product being manufactured on-site.
640

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641 Manufacturing, Light, is the indoor processing or fabrication of certain materials or products where no
642 process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will
643 disturb or endanger neighboring properties.
644

645 Marina, a waterfront establishment whose business is offering the sale or rental of boats and marine
646 sporting equipment and the servicing, repair, or storage of similar items. Such establishments may also
647 provide slip rental, gasoline, sanitary pumpout service and food and drink accommodations.
648

649
650 Marine Improvement, means a whole, constructed marine structure including, but not limited to,
651 dock, boat lift, mooring posts, walkways, and other interconnecting parts. A boat canopy, its supports,
652 and its frame shall not be considered to be a part of the marine improvement to which they are
653 attached.
654

655 Master Concept Plan, is a general graphic depiction of the layout and/or design of a land development
656 project, which shall include written and quantitative information as required by the city, including a
657 phasing plan, but to be distinguished from a "site development plan," as defined herein.
658

659 Medical Marijuana Dispensary, is a facility where marijuana is made available for sale for medical
660 purposes. This also includes establishments from which marijuana is delivered to patients who cannot
661 obtain it from a dispensary, due to physical or mental disability, for medical purposes.
662

663 Mixed-Use Development, is a project which integrates residential and non-residential uses.
664

665 Mixed-Use Building, A building containing residential and non-residential uses permitted in the zoning
666 district.
667

668 Mixed-Use Zoning Districts, includes the following zoning districts: Commercial Corridor (CC),
669 Neighborhood Commercial (NC), Mixed Use (MX), Mixed Use Seven Islands (MX7), Mixed Use Bimini
670 (MXB), South Cape (SC), and Planned Unit Developments (PUD).
671

672 Model Home, is an unoccupied dwelling constructed upon a model home lot zoned for residential use
673 and on one of four contiguous lots from the arterial or collector roadway, with each lot under the
674 ownership of one or more builders intending to use the lots as model home sites or ancillary parking, for
675 display purposes, price quoting and consummation of sales contracts.
676

677 Modular Structure, is a structure not built on-site but may be assembled on-site, which is placed on a
678 permanent foundation and meets the state building code standards.
679

680 Mulch, is any material such as wood chips, leaves, bark, straw, or other materials left loose and applied
681 to the soil surface to reduce evaporation.
682

683 Native Species, A plant or animal that originally occurred in an area.
684

685 Natural Area, is land and water that has substantially retained its natural character or land and water
686 that, although altered in character, is important as habitats for plant, animal, or marine life, for the

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687 study of its natural, historical, scientific, or paleontological features, or for the enjoyment of its natural
688 features.
689

690 Nonconforming, is when an existing lot, structure, building, sign, development, or use of an existing lot
691 or structure does not conform to one or more of the regulations currently applicable to the district in
692 which the lot, structure, building, sign, development, or use is located.
693

694 Non-domestic animals, farm animals including, but not limited to, horses, cattle, mules, goats, sheep,
695 swine and poultry.
696

697 Nonresidential Use, means a use that does not include dwelling units. Nonresidential uses include:
698 commercial, industrial, public, park, institutional, agricultural uses without a residence, and parts of
699 mixed-use developments not containing residential dwelling units. This includes hotels, motels, RV
700 parks, and campgrounds.
701

702 Nonresidential zoning districts, includes the following zoning districts: Commercial (C), Professional
703 Office (P), Industrial (I), Institutional (INST), and Preservation (PV).
704

705 Nuisance, is a thing, condition, or conduct that endangers health and safety, or unreasonably offends
706 the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes
707 with the comfortable enjoyment of life.
708

709 Occupancy, means the residing of an individual overnight in a dwelling unit or the installation, storage,
710 or use of equipment, merchandise, or machinery in any public, commercial, or industrial building.
711

712 Occupancy, Change of, means the discontinuance of an existing use and the substitution of a use of a
713 different kind or class in that same space.
714

715 On-Site Sewage System, is a sewage-treatment system that includes a settling tank through which liquid
716 sewage flows and in which solid sewage settles and is decomposed by bacteria in the absence of oxygen.
717

718 Open Space, Land and water areas retained for use as an active or passive recreation areas or for
719 resource protection in an essentially undeveloped state.
720

721 Ornamental Grass, A self-supporting, non-woody, perennial species of the plant family, Poaceae,
722 Juncaceae, or Cyperaceae, that is not mowed but is allowed to grow to its full potential and is used in
723 the landscape in the same way as a shrub.
724

725 Ornamental Wall, a wall that that is not used in the support of a building.
726

727 Outdoor Lighting, means lighting equipment installed within the property line and outside the building
728 envelopes, whether attached to poles, building structures, the earth, or any other location; and any
729 associated lighting control equipment.
730

731 Outdoor Storage, means the storage of any material for a period greater than 48 hours, including items
732 for sale, lease, processing, and repair (including vehicles) not in an enclosed building.

**CITY OF CAPE CORAL, FLORIDA
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ARTICLE 11 – DEFINITIONS**

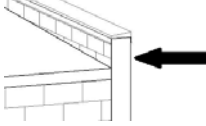
733 Outdoor Screened Storage, the keeping of any goods or products within a structure not defined as a
734 building, or within a completely fenced or walled in area. The goods shall be screened by the structure,
735 wall or fence so as not to be seen from any other property.
736

737 Outdoor Venue, means a commercial establishment which offers entertainment outside of a building,
738 including music.

739
740 Outdoor Entertainment Event, means a temporary, outdoor event utilizing amplified sound equipment,
741 not associated with an established outdoor venue.

742 Owner-occupied, means a vacation rental that is the primary and permanent residence of the owner of
743 the property.

744
745 Parapet, is that portion of the facade which extends above the roof immediately adjacent thereto.



746
747 Parcel, means a contiguous land under one ownership.

748
749 Parking, Off-Street, is space designed for the parking of automobiles on premises other than streets.
750

751 Parking, On-Street, is the storage space for an automobile that is within the street right-of-way.

752
753 Parking, Satellite, is off-street parking spaces that are not on the same lot as the principal use.

754
755 Parking, Shared, means joint use of a parking area by more than one use.
756

757 Paved, means ground covered with stone, brick, concrete, asphalt, or other substantial matter making a
758 firm, smooth, and level surface.

759
760 Paver, is a grid block designed for use as a driving or parking surface, installed with cavities (either the
761 kind in which grass can be planted or between the blocks) to minimize impervious surface and reduce
762 runoff.

763
764 Pedestrian-Friendly/Oriented, means the density, layout, and infrastructure that encourages walking
765 and biking within a subdivision or development, including limited setbacks, front porches, sidewalks, and
766 bikepaths.

767
768 Pergola, is a structure, either freestanding or attached to a façade, usually consisting of parallel
769 colonnades supporting an open roof of girders and cross rafters built as an outdoor element for partial
770 shade.

771
772 Permit, Conditional Use, a use that is permitted if all specified conditions have been adhered to.
773

774 Person, means individuals, partnerships, associations, and corporations.
775

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776 Personal Services Establishment, is an establishment which offers specialized services purchased
777 frequently by the consumer. Included are barbershops, beauty shops, chiropractic, dance studios, and
778 massage clinics, garment repair, tailoring, shoe repair, pet grooming, indoor pet sitting, and beauty
779 clinics, fitness centers, laundromats, drycleaners, photography and instructional studios, tattoo and
780 piercing studio, martial arts studios, and other similar establishments. These uses may include accessory
781 retail sales of products related to the services provided.
782

783 Pervious Surface, is any surface which allows a minimum of 80 percent precipitation from any source to
784 infiltrate directly into the ground.
785

786 Pilaster, a rectangular column, especially one projecting from a wall.



787

788 Place of Religious Assembly, a use within a permanent building that provides regular organized
789 worship and related incidental activities, except primary or secondary schools and day care facilities.
790
791

792 Planned Unit Development (PUD), is an area of land zoned and improved as a development for which
793 the otherwise applicable use and development requirements to allow for more flexible planning in
794 conformance with the development approval process and developed in accordance with the
795 provisions of this ordinance.
796

797 Point of Intersection, the point where two rights-of-way would meet if they were extended straight
798 rather than curving to create a rounded corner at an intersection.
799

800 Porch, is a covered but unenclosed projection from the main wall of a building that may or may not use
801 columns or other ground supports for structural purposes and is not used for livable space.



802

803 Portico, means a structure consisting of a roof supported by columns at regular intervals, typically
804 attached as a porch to a building.



805 Premises, is a distinct unit or parcel of land including the appurtenances thereon.
806

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807
808 Primary Frontage, is any portion of a property that faces any public Right-of-Way defined as a Boulevard,
809 a Parkway, or fronting Pine Island Road.
810
811 Private Property, property that is owned, leased, operated, maintained or controlled by one or more
812 individuals or entities other than the city.
813
814 Professional Services,
815
816 Public Art or Sculpture, Any visual work of art displayed for two weeks or more in an open city-owned
817 area, on the exterior of any city-owned facility, within any city-owned facility in areas designated as public
818 area, lobbies, or public assembly areas, or on non-city property if the work of art is installed or financed,
819 either wholly or in part, with city funds or grants procured by the city.
820
821 Public Notice, means notice to the public of a public hearing or opportunity for the public to present
822 their views to an official representative or board of a public agency concerning an official action pending
823 before the agency as required by state law.
824
825 Public Parks and Recreational Facilities, means natural or landscaped areas, buildings, or structures,
826 provided by a government, to meet the active or passive recreational needs of people.
827
828 Public Safety Facility, is a government facility for public safety and emergency services, including
829 facilities that provides police or fire protection and related administrative facilities and training facilities.
830
831 Rain Sensor, A calibrated device that is designed to measure rainfall and override the irrigation cycle
832 of the irrigation system when a pre-determined amount of rainfall has occurred.
833
834 Redevelopment, is any proposed expansion, addition, or major facade change to an existing building,
835 structure, or parking facility.
836
837 Reflecting Pool, is a shallow (less than 18" deep) pool designed as a feature of a garden, often associated
838 with seating and/or statues
839
840 Religious Institution, A religious assembly that may also include related facilities such as a rectory,
841 convent, private school, licensed child or adult daycare, recreational facilities, or any combination
842 thereof.
843
844 Residential Use, means a structure or part of a structure containing dwelling units, including single-family,
845 duplexes, multi-family dwellings, boarding or rooming houses. Residences do not include transient
846 accommodations such as transient hotels, motels, tourist cabins, RV parks, or, in a mixed-use structure,
847 that part of the structure used for any nonresidential uses.
848
849 Residential Zoning Districts, includes the following districts: Single-Family Residential (R-1), Multi-Family
850 Low Residential (RML), Multi-Family Residential Medium (RMM), Residential Estate (RE), and Agriculture
851 (A).
852

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853 Resort, is a facility principally for the accommodation or short-term residence of transient guests or
854 vacationers, but where the primary attraction is generally recreational features or activities.
855

856 Retail Sales Establishment, is an establishment selling goods directly to the consumer. Retaining Wall, is
857 a man-made barrier constructed for the purpose of stabilizing soil, slowing erosion, or terracing a parcel
858 or site.
859

860 Right-of-way, is a strip of land taken or dedicated for use as a public way. In addition to the roadway,
861 it normally incorporates the curbs, parking strips, sidewalks, lighting, drainage facilities, and canals.
862

863 Riparian Buffer, is a vegetated buffer strip along a watercourse that filters stormwater and provides
864 wildlife habitat.
865

866 Roadside Fruit and Vegetable Stand, A temporary building or structure, built in accordance with all
867 applicable Building Code requirements, which is designed, used or intended to be used for the
868 purpose of display and retail sales of farm products, such as fruits, vegetables, food products and
869 flowers.
870

871 Roof Line (Deck Line), means the highest continuous horizontal line of a roof on a sloping roof, the roof
872 line is the principal ridge line or the highest line common to one (1) or more principal slopes of the roof.
873 On a flat roof, the roof line is the highest continuous line of a roof or parapet, whichever is higher.
874

875 Photovoltaic Solar System: A system which uses one (1) or more photovoltaic panel(s) installed on the
876 surface of a roof, parallel to a sloped roof or surface or rack-mounted on a flat roof, to convert
877 sunlight into electricity.
878

879 Runoff, is stormwater leaving a site due to the force of gravity.
880

881 School, is an institution for the teaching of children or adults including primary and secondary schools,
882 colleges, professional, dance, business, trade, art, and similar facilities.
883

884 Screened, means obscured from public view.
885

886 Seating Capacity, is the actual number of seats available for use based upon the number of seats or
887 one seat per 24 inches of bench or pew length. For other areas where seats are not fixed, the seating
888 capacity shall be determined as indicated by the Florida Building Code.
889

890 Seawall, a wall built along a shoreline.
891

892 Self-Service Storage Facility, is a building used for the storage of personal property where individual
893 owners control individual storage spaces.
894

895 Septic Tank, see on-site sewage system.
896

897 Setback, is the minimum horizontal distance between a structure and a property line.
898

**CITY OF CAPE CORAL, FLORIDA
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899 Sexually Oriented Business. See definition for, ‘Sexually Oriented Business’ contained in § 12-62 of
900 the City of Cape Coral Code of Ordinances, which definition is incorporated herein in its entirety by
901 reference.
902

903 Shed, an accessory structure, attached or detached from the primary structure, which is used primarily
904 for storage and not intended for human occupancy. A shed shall not include storage containers or
905 shipping containers.

906
907 Shopping Center, A group of retail and other commercial businesses that are within a development.
908

909 Shrub, a woody plant that produces multiples stems or trunks rather than a single tree-like stem.
910 Sidewalk, is an improved pedestrian surface that is typically in a right-of-way.
911

912 Sill, means a shelf or slab of stone, wood, or metal at the foot of a window or doorway.
913

914 Site Development Plan, is the 100% detailed set of construction plans for installation of land
915 development improvements for a site which must be approved prior to the release of a site
916 development permit.
917

918 Slope, is the degree of deviation of a surface from the horizontal, usually expressed in percent, degrees,
919 or rise over run.
920

921 Socially-Active Open Space, is open space with a minimum width of 30 feet that is created and designed
922 for year-round active use by the public in the form of active lawn areas, plazas, squares, courtyards, and
923 gardens. Amenities are logically arranged and typically include paths, formal or informal planting areas,
924 and furnishings. ▾

925
926 Sod, is the grass-covered surface of the ground and the soil below the surface only to the depth of the
927 roots of the grass.
928

929 Solar Photovoltaic (PV) Arrays, is a device or combination of devices or structures that transforms direct
930 solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure’s
931 energy supply
932

933 Sound Amplification Device, means equipment designed to increase the volume of sound created by a
934 separate source such as a musical instrument or a human voice. The term does not include a standard
935 radio, DVD player or similar device, but does include “stand alone” amplified microphone systems.
936

937 Special Event, a preplanned single gathering, event or series of related consecutive gatherings or events
938 of an entertainment, cultural, recreational, educational, political, religious, or sporting nature, or any
939 nature, that is sponsored by an individual or entity and is open to the public in general.
940

941 Special Exception, A use which is essential to or would promote the public health, safety, or welfare in
942 one or more districts, but which would impair the integrity and character of the district in which it is
943 located, or in adjoining districts unless restrictions or conditions on location, size, extent and
944 character of performance are imposed in addition to those imposed in this ordinance.

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**CITY OF CAPE CORAL, FLORIDA
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945
946 Commercial Recreation, Indoor, is an indoor facility, with or without seating for spectators, and
947 providing accommodations for a variety of individual, organized, or franchised sports, including
948 basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may
949 also provide other regular organized or franchised events, health and fitness club facilities, swimming
950 pool, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support
951 facilities.

952
953 Commercial Recreation, Outdoor, means a recreational land use conducted outside of a building,
954 including athletic fields; skateboard park; swimming, tennis, handball, basketball courts; batting cages.

955
956 Stoop, means a small staircase ending in a platform and leading to the entrance of a building.



957

958 Stormwater, is the flow of water or the water itself which results from precipitation.

959
960 Streetscape, is the visual image of a street, including the combination of buildings, parking, signs, and
961 other hardscape and street furniture

962
963 Structure, anything constructed or erected, the use of which requires permanent location on the ground
964 or attached to something having a permanent location on the ground including but not limited to
965 fences, signs, kiosks, or similar uses.

966
967 Subdivision, is the division of land into two or more lots or a development consisting of multiple
968 subdivided lots.

969
970 Subdivision Construction Plan, is the 100% detailed set of construction plans for installation of land
971 development improvements of a subdivision which must be approved prior to the release of a
972 subdivision infrastructure permit.

973
974 Subdivision Plat, is the schematic representation of land divided or to be divided.

975
976 Subdivision Plat, Final, is the plat to be given final approval which includes all changes, additional
977 information, and requirements imposed by the city. The final plat is recorded in the county clerk of
978 courts.

979
980 Substantial Renovation, means repair or changes worth 50%, or more, of the fair market value of the
981 structure and improvements, not including the land.

982
983 Swimming Pool, is a structure, whether above or below grade level, designed to hold water more than 30
984 inches deep to be used for recreational purposes.

985

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986 Temporary Storage Container, is a standardized, reusable vessel that is designed and constructed for the
987 primary purpose of packing, shipping, and transportation of goods or freight and are designed or
988 capable of being mounted or moved on a truck, train, or ship.
989

990 Temporary Use, is a use of land, buildings or structures that are established for a fixed period of time
991 with the intent to discontinue the use upon the expiration of such time.
992

993 Tower, is a structure which is designed for the purpose of supporting one or more antennas or wireless
994 telecommunication facilities. The term "Tower" shall not include amateur radio antennas, structure-
995 mounted and pole-mounted wireless telecommunication facilities.
996

997 Transient Occupants, means any person, or guest or invitee of such person, who occupies or is in actual
998 or apparent control or possession of residential property registered as a vacation rental. It shall be a
999 rebuttable presumption that any person who holds themselves out as being an occupant or guest of an
1000 occupant of the vacation rental is a transient occupant.

1001
1002 Tree, is a self-supporting plant having at least one well-defined woody stem or trunk and normally
1003 attaining a mature height of at least 15 feet, with an average mature spread of at least 15 feet.
1004

1005 Tree, Accent, is a smaller tree whose mature height can be expected to range between 15 feet and 30
1006 feet and which has an expected crown spread range between 15 feet and 25 feet.
1007

1008 Tree, Canopy, is a larger tree species that normally achieves an overall height and spread at maturity of
1009 30 feet or more.
1010

1011 Tree, Palm, is an unbranched, evergreen tree that grows in tropical regions and has a straight, tall trunk
1012 and many large leaves at the top of the trunk.
1013

1014 Trellis, a vertical panel of lattice designed to support vine plants.
1015

1016 Utility Line, an underground conduit and related facilities, including pipe or cable, by which a person
1017 furnishes material or service.
1018

1019 Utilities, Incidental Activities or Facilities, means the construction or placement of public utilities or
1020 other infrastructure on a permanent or temporary basis. Examples of "incidental utility activities"
1021 include drainage improvements, stormwater retention or detention features, valves, hydrants, street
1022 improvements, temporary boat launches for water quality sampling, extension of water and sewer lines,
1023 and small-scale lift stations that are not enclosed in a structure (125 cubic feet or less).
1024

1025 Utilities, Major Public Facilities, is any public service improvement or structure developed by or for a
1026 public agency that is not defined as an incidental public facility, including but not limited to electrical
1027 substations, sewer and water treatment plants, water reservoirs, trunk lines, regional stormwater
1028 detention facilities, new or expanded public buildings designed for human occupancy that increase
1029 traffic within a neighborhood, and active park improvements such as ball fields or restroom facilities.
1030

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ARTICLE 11 – DEFINITIONS

- 1031 Utilities, Private, means utilities that are not subject to city acceptance for operation or maintenance.
1032 For purposes of this code, private utilities include natural gas lines, power lines, telephone lines, cable
1033 television lines, and other communication lines, their appurtenances and any component part(s)
1034 thereof, and the utility companies' operation, maintenance, repair, and replacement of same.
1035
- 1036 Vacation Rental, means any unit or group of units in a condominium or cooperative or any individually or
1037 collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is
1038 rented to transient occupants more than three (3) times in a calendar year for periods of less than thirty
1039 (30) days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as
1040 a place regularly rented to transient occupants, and also a transient public lodging establishment and non-
1041 transient lodging establishment as defined in F.S. § 509.013, but that is not a timeshare project.
1042
- 1043 Variable Message Board, means a portable electronic device which may be used for providing information
1044 to motorists about construction schedules, alternate routes, expected delays, detours, and any other
1045 public message for the health, safety, or welfare of the traveling public and residents. Use limited to
1046 government agencies.
1047
- 1048 Variance, a departure from the terms of this ordinance pertaining to height, width, depth, or area of
1049 structures, sizes of yards, parking space, or sign requirements where such departure will not be contrary
1050 to the public interest and where, owing to conditions peculiar to the property because of its size, shape,
1051 or topography, and not as a result of the actions of the applicant, the literal enforcement of this
1052 ordinance would result in unnecessary and undue hardship.
1053
- 1054 Vehicle Fueling Station, means any place where motor vehicle fuel is sold and dispensed, accessory
1055 activities may include the retail sale of convenience items or a car wash.
1056
- 1057 Vehicle Repair Service Establishment, is a building or structure used for the repair and maintenance of
1058 automobiles, motorcycles, trucks, trailers, or similar vehicles.
1059
- 1060 Vested Property Rights, means the right to undertake and complete the development and use of
1061 property under the terms and conditions of an approved site-specific development plan or an approved
1062 phased development plan for a specified time, regardless of changes in this ordinance.
1063
- 1064 Vehicle Sales, [The sale of motorized vehicles such as cars, trucks, vans, and motorcycles.](#)
1065
- 1066 Vicinity Map, is a drawing or diagram, to the appropriate scale to show the location of the proposed
1067 development in relation to abutting properties, major streets, and other known landmarks.
1068
- 1069 Visibility Triangle, is a triangular area at the intersection of two streets, or a street and a driveway; two
1070 sides of which are measured from the point of intersection for a distance specified. The third side of the
1071 triangle is a line across the corner of the lot joining the ends of the other two sides.
1072
- 1073 Wall, is an upright structure, with a continuous footer, constructed of building material, such as masonry,
1074 wood, or plaster serving to enclose, divide, or protect an area.
1075

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1076 Wetlands, are lands transitional between terrestrial and aquatic systems where the water table is
1077 usually at or near the surface or the land is covered by shallow water. For purposes of this definition,
1078 wetlands must have the following three attributes: (a) have a predominance of hydric soils; (b) are
1079 inundated or saturated by surface or ground water at a frequency and duration sufficient to support a
1080 prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (c) under
1081 normal circumstances support a prevalence of such vegetation.
1082

1083 Yard, the open space surrounding the principal building on any lot, unoccupied and unobstructed by a
1084 portion of that building from the ground to the sky except where specifically permitted by this
1085 ordinance.
1086

1087 **CHAPTER 3. FLOODPLAIN MANAGEMENT DEFINITIONS**
1088

1089 This section defines terms that are related to the Article 8 "Floodplain Management".
1090

1091 Alteration of a Watercourse, a dam, impoundment, channel relocation, change in channel alignment,
1092 channelization, or change in cross-sectional area of the channel or the channel capacity, or any other
1093 form of modification which may alter, impede, retard, or change the direction or velocity of the riverine
1094 flow of water during conditions of the base flood.
1095

1096 ASCE 24, a standard titled Flood Resistant Design and Construction that is referenced by the Florida
1097 Building Code. **ASCE 24** is developed and published by the American Society of Civil Engineers, Reston,
1098 VA.
1099

1100 Base Flood, a flood having a 1% chance of being equaled or exceeded in any given year. The base flood
1101 is commonly referred to as the "100-year flood" or the "1%-annual chance flood."
1102

1103 Base Flood Elevation, the elevation of the base flood, including wave height, relative to the National
1104 Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on
1105 the Flood Insurance Rate Map (FIRM).
1106

1107 Best Management Practices (BMP), is the combination of conservation measures, structures, or
1108 management practices that reduces or avoids adverse impacts of development on adjoining sites land,
1109 water or waterways, and waterbodies.
1110

1111 Coastal Construction Control Line, the line established by the State of Florida pursuant to F.S. §
1112 161.053, and recorded in the official records of the city, which defines that portion of the beach-dune
1113 system subject to severe fluctuations based on a 100-year storm surge, storm waves or other
1114 predictable weather conditions.
1115

1116 Coastal High Hazard Area, a special flood hazard area extending from offshore to the inland limit of a
1117 primary frontal dune along an open coast and any other area subject to high velocity wave action from
1118 storms or seismic sources. Coastal High Hazard Areas are also referred to as "high hazard areas subject
1119 to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as
1120 Zone V1 V30, VE, or V.
1121

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1122 Design Flood, the flood associated with the greater of the following two areas; an area with a floodplain
1123 subject to a 1% or greater chance of flooding in any year, or an area designated as a flood hazard area
1124 on the City flood hazard map or otherwise legally designated.
1125

1126 Design Flood Elevation, the elevation of the "design flood," including wave height, relative to the datum
1127 specified on the city's legally designated flood hazard map. In areas designated as Zone AO, the design
1128 flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the
1129 depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the
1130 depth number is not specified on the map, the depth number shall be taken as being equal to two feet.
1131

1132 Existing Building and Existing Structure, any buildings and structures for which the "start of
1133 construction" commenced before August 17, 1981.
1134

1135 Existing Manufactured Home Park or Subdivision, a manufactured home park or subdivision for which
1136 the construction of facilities for servicing the lots on which the manufactured homes are to be affixed
1137 (including, at a minimum, the installation of utilities, the construction of streets, and either final site
1138 grading or the pouring of concrete pads) is completed before August 17, 1981.
1139

1140 Expansion to an Existing Manufactured Home Park or Subdivision, the preparation of additional sites by
1141 the construction of facilities for servicing the lots on which the manufactured homes are to be affixed
1142 (including the installation of utilities, the construction of streets, and either final site grading or the
1143 pouring of concrete pads).
1144

1145 Federal Emergency Management Agency (FEMA), the federal agency that, in addition to carrying out
1146 other functions, administers the National Flood Insurance Program.
1147

1148 Flood or Flooding, a general and temporary condition of partial or complete inundation of normally dry
1149 land from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of
1150 surface waters from any source.
1151

1152 Flood Damage Resistant Materials, any construction material capable of withstanding direct and
1153 prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic
1154 repair.
1155

1156 Floodplain, is the land area susceptible to inundation by water as a result of a flood.
1157

1158 Floodway Encroachment, is any fill, structure, building, accessory use, use, or development in the
1159 floodway.
1160

1161 Flood Hazard Area, The greater of the following two areas; the area within a floodplain subject to a 1%
1162 or greater chance of flooding in any year, or the area designated as a flood hazard area on the city's
1163 flood hazard map, or otherwise legally designated.
1164

1165 Floodplain Administrator, the office or position designated and charged with the administration and
1166 enforcement of this Article (may be referred to as the Floodplain Manager).
1167

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1168 Floodplain Development or Approval, an official document or certificate issued by the city or other
1169 evidence of approval or concurrence, which authorizes performance of specific development activities
1170 that are located in flood hazard areas and that are determined to be compliant with this Article.

1171
1172 Floodway, the channel of a river or other riverine watercourse and the adjacent land areas that must
1173 be reserved in order to discharge the base flood without cumulatively increasing the water surface
1174 elevation more than one foot.

1175
1176 Floodway Encroachment Analysis, an engineering analysis of the impact that a proposed encroachment
1177 into a floodway is expected to have on the floodway boundaries and base flood elevations; the
1178 evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering
1179 methods and models.

1180
1181 Functionally Dependent Use, A use which cannot perform its intended purpose unless it is located or
1182 carried out in close proximity to water, including only docking facilities, port facilities that are necessary
1183 for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the
1184 term does not include long term storage or related manufacturing facilities.

1185
1186 Highest Adjacent Grade, The highest natural elevation of the ground surface prior to construction next
1187 to the proposed walls or foundation of a structure.

1188
1189 Historic Structure, Any structure that is determined eligible for the exception to the flood hazard area
1190 requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings.

1191
1192 Letter of Map Change, (LOMC) An official determination issued by FEMA that amends or revises an
1193 effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

1194
1195 Letter of Map Amendment (LOMA): An amendment based on technical data showing that a
1196 property was incorrectly included in a designated special flood hazard area. A LOMA amends the
1197 current effective Flood Insurance Rate Map and establishes that a specific property, portion of a
1198 property, or structure is not located in a special flood hazard area.

1199
1200 Letter of Map Revision (LOMR): A revision based on technical data that may show changes to
1201 flood zones, flood elevations, special flood hazard area boundaries and floodway delineations,
1202 and other planimetric features.

1203
1204 Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land
1205 has been elevated by fill above the base flood elevation and is, therefore, no longer located within
1206 the special flood hazard area. In order to qualify for this determination, the fill must have been
1207 permitted and placed in accordance with the City floodplain management regulations.

1208
1209 Letter of Map Revision, Conditional (CLOMR): A formal review and comment as to whether a
1210 proposed flood protection project or other project complies with the minimum NFIP requirements
1211 for such projects with respect to delineation of special flood hazard areas. A CLOMR does not
1212 revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and

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- 1213 approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to
1214 revise the effective FIRM.
1215
- 1216 Lowest Floor, The lowest floor of the lowest enclosed area of a building or structure, including
1217 basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable
1218 solely for vehicle parking, building access or limited storage provided that such enclosure is not built so
1219 as to render the structure in violation of the non-elevation requirements of the Florida Building Code
1220 or ASCE 24.
1221
- 1222 Manufactured Home, A structure, transportable in one or more sections, which is eight feet or more in
1223 width and greater than 400 square feet, and which is built on a permanent, integral chassis and is
1224 designed for use with or without a permanent foundation when attached to the required utilities. The
1225 term Manufactured Home does not include a "recreational vehicle" or "park trailer." The
1226 term Manufactured Home shall also include the term "mobile home" as provided in Article
1227 11. Definitions.
1228
- 1229 Manufactured Home Park or Subdivision, A parcel (or contiguous parcels) of land divided into two or
1230 more manufactured home lots for rent or sale.
1231
- 1232 Market Value, the price at which a property will change hands between a willing buyer and a willing
1233 seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of
1234 relevant facts. As used in this Article, the term refers to the market value of buildings and structures,
1235 excluding the land and other improvements on the parcel. Market value may be established by a
1236 qualified independent appraiser, actual cash value (replacement cost depreciated for age and quality
1237 of construction), or tax assessment value adjusted to approximate market value by a factor provided by
1238 the property appraiser.
1239
- 1240 New Construction, For the purposes of administration of this Article and the flood resistant construction
1241 requirements of the Florida Building Code, structures for which the "start of construction" commenced
1242 on or after August 17, 1981 and includes any subsequent improvements to such structures.
1243
- 1244 New Manufactured Home Park or Subdivision, A manufactured home park or subdivision for which the
1245 construction of facilities for servicing the lots on which the manufactured homes are to be affixed
1246 (including at a minimum, the installation of utilities, the construction of streets, and either final site
1247 grading or the pouring of concrete pads) is completed on or after August 17, 1981.
1248
- 1249 Park Trailer, A transportable unit which has a body width not exceeding 14 feet and which is built on a
1250 single chassis and is designed to provide seasonal or temporary living quarters when connected to
1251 utilities necessary for operation of installed fixtures and appliances.
1252
- 1253 Recreational Vehicle, A vehicle, including a park trailer, which is:
1254
- 1255 1. Built on a single chassis;
 - 1256
 - 1257 2. 400 square feet or less when measured at the largest horizontal projection;
 - 1258

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- 1259 3. Designed to be self-propelled or permanently towable by a light duty truck; and
1260
1261 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for
1262 recreational, camping, travel, or seasonal use.
1263
- 1264 Sand Dunes, Naturally, occurring accumulations of sand in ridges or mounds landward of the beach.
1265
- 1266 Special Flood Hazard Area, An area in the floodplain subject to a 1% or greater chance of flooding in any
1267 given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1 A30, AE, A99, AH, V1 V30,
1268 VE or V.
1269
- 1270 Start of Construction, the date of issuance for new construction and substantial improvements to
1271 existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation,
1272 addition, placement, or other improvement is within 180 days of the date of the issuance. The actual
1273 start of construction means either the first placement of permanent construction of a building
1274 (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of
1275 piles, the construction of columns.
1276
- 1277 Permanent construction does not include land preparation (such as clearing, grading, or filling), the
1278 installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the
1279 erection of temporary forms or the installation of accessory buildings such as garages or sheds not
1280 occupied as dwelling units or not part of the main buildings. For a substantial improvement, the
1281 actual Start of Construction means the first alteration of any wall, ceiling, floor or other structural part
1282 of a building, whether or not that alteration affects the external dimensions of the building.
1283
- 1284 Substantial Damage, Damage of any origin sustained by a building or structure whereby the cost of
1285 restoring the building or structure to its before-damaged condition would equal or exceed 50% of the
1286 market value of the building or structure before the damage occurred.
1287
- 1288 Substantial Improvement, Any combination of repair, reconstruction, rehabilitation, addition, or other
1289 improvement of a building or structure taking place during a five-year period, the cumulative cost of
1290 which equals or exceeds 50% of the market value of the building or structure before the improvement
1291 or repair is started. For each building or structure, the five-year period begins on the date of the first
1292 improvement or repair of that building or structure subsequent to August 17, 1981. If the structure has
1293 incurred "substantial damage," any repairs are considered substantial improvement regardless of the
1294 actual repair work performed. The term does not, however, include either:
1295
- 1296 1. Any project for improvement of a building required to correct existing health, sanitary, or
1297 safety code violations identified by the building official and that are the minimum necessary
1298 to assure safe living conditions; and
1299
- 1300 2. Any alteration of a historic structure provided the alteration will not preclude the
1301 structure's continued designation as a historic structure.
1302
1303

CHAPTER 4. MARINE IMPROVEMENT DEFINITIONS

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- 1305 This section defines terms that are related to the Article 5, Chapter 5 “Marine Improvements”.
- 1306
- 1307 Adjacent Parcel, is any waterfront parcel that is not an end parcel, but that abuts an end parcel or a corner
- 1308 parcel.
- 1309
- 1310 Boat Canopy, a removable protective cover installed to cover a boat located in the principal mooring
- 1311 area of a dock or over a boat lift; a boat canopy designed and intended for the purpose of protecting a
- 1312 marine vessel from damage from the elements and is fastened to, erected on, or installed on a
- 1313 marine improvement. Covers that protect marine vessels from the elements, but that fasten only to
- 1314 the marine vessel and not, in any way, to a marine improvement shall not be deemed to be boat
- 1315 canopies.
- 1316
- 1317 Boat slip, is a space designed for the mooring of a single watercraft. Such spaces may extend from a
- 1318 dock or shoreline or be created from a cut-in.
- 1319
- 1320 Boathouse, is an accessory structure either wholly or partially over a body of water and designed to
- 1321 provide shelter for water craft or for marine-related equipment.
- 1322
- 1323 Canal End Line, is a line or lines drawn from the farthest point where the canal meets land perpendicular
- 1324 to the sides of the canal, or to the sides of the canal as extended if necessary. If the side of a canal
- 1325 curves near its end point, such canal side shall be extended from the point immediately preceding where
- 1326 it begins to curve. See Diagram 5.5.4.A.
- 1327
- 1328 Canal Width, the width of the canal measured from seawall to seawall using the City’s Geographic
- 1329 Information Systems (GIS).
- 1330
- 1331 Captain’s Walk, a walkway that is parallel to the seawall with a maximum width of six feet.
- 1332
- 1333 Centerline of the Marine Improvement Area, means a line extended from the center of the parcel’s
- 1334 water frontage line to the center of the offset line of the parcel’s marine improvement area. See
- 1335 Diagram 5.5.4.F.
- 1336
- 1337 Channel or Canal, is an open conduit, either naturally or artificially created, which periodically or
- 1338 continuously contains moving water, or which forms a connecting link between two bodies of water.
- 1339
- 1340 Corner Parcel, is a parcel that either touches or is on both sides of an interior corner of a lake, basin, or
- 1341 canal.
- 1342
- 1343 Corner, Waterway, is the meeting of two sides which create an angle less than 180 degrees.
- 1344
- 1345 Cut-In Boat Slip, is a place for a boat to moor, created within a parcel through excavation or removal of
- 1346 soil and rock material and construction of a seawall around that area.
- 1347
- 1348 End Parcel, a waterfront parcel where any part of the parcel abuts or includes within its boundaries any
- 1349 part of the canal end line or any part of an extension of a side line between the side line and the canal
- 1350 end line.

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- 1351
1352 Fender Post, is a post inserted into the canal bottom and fastened to the dock or seawall to prevent
1353 damage to the vessel when tied alongside the dock or seawall.
1354
- 1355 Marine Improvement, means a whole, constructed marine structure including, but not limited to,
1356 dock, boat lift, mooring posts, walkways, and other interconnecting parts. A boat canopy, its supports,
1357 and its frame shall not be considered to be a part of the marine improvement to which they are
1358 attached.
1359
- 1360 Marine Improvement Area, is that area enclosed by the water frontage line, the offset line, and lines
1361 connecting the ends of the offset line to corresponding offset points. This establishes the construction
1362 envelope for marine improvements See Diagram 5.5.4.E.
1363
- 1364 Mean Water Level, in regard to fresh water waterways, the elevation established at the downstream
1365 weir, and, in regard to saltwater waterways, the mean high water of +013 feet National Geodetic
1366 Vertical Datum of 1929 (NGVD-29).
1367
- 1368 Mooring Piles, posts, meant for tethering a watercraft to, which are anchored into the floor of a
1369 waterbody.
1370
- 1371 Navigable Channel, means that portion of the waterway width in which no marine improvement may
1372 lawfully be constructed. The access width of the waterway shall be calculated by subtracting from the
1373 calculated waterway width twice the maximum distance that a marine improvement located along one
1374 side of the waterway could lawfully project.
1375
- 1376 Offset Point, means the distance from the property line where a marine improvement may be built. See
1377 Diagram 5.5.4.C.
1378
- 1379 Outside Corner parcel, means a parcel of land which projects into one or more waterways so as to have
1380 two or more sides abutting such waterway(s).
1381
- 1382 Quay, a modified seawall where a boat can dock parallel to the shore.
1383
- 1384 Water Frontage Line, means the line at which a waterfront parcel abuts the waterway. If the
1385 waterfront parcel has a seawall, the seawall face shall be deemed the water frontage line for the
1386 parcel. For waterfront parcels that have a property line, but no seawall, abutting the waterway, such
1387 property line shall be deemed the water frontage line. See Diagram 5.5.4.A.
1388
- 1389 Waterfront Parcel, means a parcel which abuts a waterbody.
1390
- 1391 Waterway, is any man-made or natural body of water, including, canals, lakes, and basins, within the
1392 City of Cape Coral.
1393
- 1394 Waterway Access Ratio, means shall be calculated by dividing the waterway access width by the
1395 calculated width of the waterway. See 5.5.4.B.
1396

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1397 Waterway Center Point (WCP), is a point on the centerline of the canal 40 feet from the water's end. See
1398 Diagram 5.5.4.B.
1399

1400 Watercourse, is a channel in which a flow of water occurs either continuously or intermittently in a
1401 definite direction. The term applies to either natural or artificially constructed channels.
1402

1403 Watercraft, is a boat, houseboat, canoe, raft, surfboard, or other apparatus designed for use on water,
1404 including motors or engines designed to propel such craft or apparatus.
1405

1406 Watercraft, Personal, is a recreational watercraft that a rider sits or stands on rather than inside, as one
1407 would a boat.
1408

CHAPTER 5. TRUCK AND VEHICLE PARKING DEFINITIONS

1409 This chapter defines terms that are used in Article xx – Truck and Vehicle Parking.
1410
1411

1412
1413 Single-Family Residential, property zoned R-1 and RE, and AI, RML or RMM when used for single-family
1414 residential purposes.
1415

1416 Multi-Family Residential, property zoned RML and RMM when used for multi-family residential
1417 purposes.
1418

1419 Industrial and Agricultural, include property zoned I and A when not used for single-family residential
1420 purposes.
1421

1422 Commercial and Professional, shall include property zoned C, CC, INST, P-1, NC, MX, MXB, MX SI, and
1423 SC.
1424

1425 Commercial Lettering, letters, numbers, symbols, or combinations thereof which advertise a trade,
1426 business, industry, or other activity for profit or a product, commodity, or service. The term shall not
1427 include bumper stickers affixed to bumpers only or the decal or plate commonly applied to a motor
1428 vehicle by a motor vehicle dealer.
1429

1430 Commercial Rack, any frame, device, or other apparatus that is designed and constructed for the
1431 primary purpose of carrying tools, building materials, or merchandise. Racks designed and constructed
1432 for carrying luggage or sporting equipment, such as kayaks, canoes, or bicycles, shall not be considered
1433 to be Commercial Racks so long as they are used for the purpose of carrying the aforesaid items.
1434 Furthermore, a rack designed and constructed for carrying a ladder (a "ladder rack") that is attached to
1435 a motor vehicle shall not be considered to be a Commercial Rack, provided the ladder rack is not wider
1436 than the vehicle to which it is attached and no part of such ladder rack extends more than 16 inches
1437 above the cab of the vehicle or extends beyond the tailgate of the vehicle.
1438

1439 Commercial Vehicle, an agricultural, construction, or industrial motor vehicle or any bus, step van, truck,
1440 or truck tractor. The term shall include any motor vehicle (including automobiles) upon which
1441 commercial lettering, as defined herein, has been affixed. The term shall also include a pickup truck
1442 from which the cargo box has been removed. Any motor vehicle with one or more tools (including a

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1443 ladder), building materials, or merchandise visible from the street or abutting residential property, or a
1444 "commercial rack" that is visible from the street or abutting residential property shall be deemed a
1445 commercial vehicle. A passenger automobile or sports utility vehicle (SUV) containing commercial
1446 lettering shall not be considered a commercial vehicle for purposes of this section so long as the
1447 commercial lettering on the vehicle does not contain any reference to the residential address at which
1448 the automobile is parked.

1449
1450 Light Van, any motor vehicle having a generally rectangular bulk, which is licensed and registered for
1451 operation upon public highways and which has a carrying capacity of no more than one ton or no more
1452 than nine passengers.

1453
1454 Owner, when used in relation to a motor vehicle or trailer, any person to whom a motor vehicle or
1455 trailer is registered according to the certificate of title for the motor vehicle or trailer and, if the motor
1456 vehicle or trailer is under lease, rental agreement, or on loan under any type of arrangement, gratuitous
1457 or otherwise, shall include the person having possession or control of the vehicle. When used in relation
1458 to privately real property in a residential zoning district, the term shall mean the owner according to
1459 the latest ad valorem tax records of the county and, if the privately property is under lease, rental
1460 agreement, agreement for deed, or similar land contract shall include the person in possession and
1461 control of the property.

1462
1463 Pickup Truck, any motor vehicle designed primarily for the transportation of property within a
1464 permanently attached open cargo box and having a gross motor vehicle weight of no more than 17,500
1465 pounds, a height of no more than 82 inches (measured from the ground to the vehicle's highest point
1466 excluding antennae), no more than six wheels, and no more than two sides.

1467
1468 Screening, a visual barrier consisting of permanent, dense vegetation, or other permitted structure at
1469 least equal in height to the recreational vehicle, boat, or boat trailer but which does not violate any
1470 height limitation for barriers in the applicable zoning district.

1471
1472 Trailer, any vehicle without motive power designed for carrying persons or property on its own
1473 structure and to be drawn by a motor vehicle regardless of hitch type.

1474
1475 Trailer, Boat, a trailer that is designed and constructed by the manufacturer for the primary purpose of
1476 carrying and launching a boat.

1477
1478 Truck, any motor vehicle, other than a pickup truck or light van, designed primarily for the
1479 transportation of property or cargo.

1480
1481 Vehicle for Human Habitation, a house car, camp car, camper, house trailer, or any vehicle by whatever
1482 name known, school bus, or other bus designed or adaptable for human habitation, whether such
1483 vehicle moves by its own power or by power supplied by a separate vehicle.

1484
1485 **CHAPTER 6. SIGN DEFINITIONS**

1486
1487 This chapter defines terms that are used in Article 7 - Signs.
1488

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1489 Banner, is any sign having the characters, letters, illustrations, or ornamentations applied to cloth, paper,
1490 or fabric of any kind with only such material for foundation. The word "banner" shall also include pennant
1491 or any animated, rotating, or fluttering device, with or without lettering or design, and manufactured and
1492 placed for the purpose of attracting attention.
1493

1494 Feather Flag, is a vertical flag used for identifying a secondary model home contiguous to the primary
1495 model home site.
1496

1497 Flag, is a piece of fabric with a color or pattern that represents some country, state, county, city, party,
1498 organization, or business activity.
1499

1500 Flashing Sign, is any sign with a light or lights which flash, blink, operating on and off intermittently, change
1501 in intensity, or otherwise create the illusion of flashing or movement.
1502

1503 Flat or Wall Sign, is any sign erected parallel to the facade or on the outside wall of any building and
1504 supported throughout its length by the wall of the building or incorporated into the structure or
1505 architecture.
1506

1507 Mural, is any picture, scene, or diagram painted on any exterior wall or fence not interpreted by the
1508 Director to be advertising. Murals determined to be advertising shall be considered a sign and shall be
1509 included in the calculations of allowable sign area.
1510

1511 Sign, is any display of banners and flags, characters, letters, illustrations or any ornamentations, or the
1512 complete structure on which any such characters, letters, illustrations, or ornamentations are stated or
1513 applied (except buildings to which the sign may be attached); used for identification, directional purposes,
1514 advertising, or promotional purposes.
1515

1516 Sign, A-Frame, is a moveable sign not secured or attached to the ground as required by this Code. Menu
1517 boards are permitted on sidewalks within commercial shopping centers and in front of the business it
1518 applies to, and which do not obstruct the walkway and are not placed in the landscaping.
1519

1520 Sign, Abandoned, is a sign which advertises a business that is no longer licensed or is no longer doing
1521 business at that location.
1522

1523 Sign, Add-on, is any additional sign area added to a previously permitted and/or conforming sign.
1524

1525 Sign, Advertising, is any form of printed message intended to aid, directly or indirectly, in the sale, use,
1526 or promotion of a product, commodity, service, activity, or entertainment.
1527

1528 Sign, Animated, is a sign with action or motion using electrical energy, electronic or manufactured
1529 sources of supply, or wind actuated elements, including rotating, revolving, or flashing signs against
1530 which it is placed, excluding the necessary supports or uprights on which such sign is placed.
1531

1532 Sign Area, is the height multiplied by the length. Height shall be measured from the top of the highest
1533 letter to the bottom of the lowest and length shall be measured from the point of the lettering furthest
1534 to the left to the point of the lettering furthest to the right. Any logo shall be measured in the same

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- 1535 fashion and will count as part of the sign face area. When the lettering and logo are contained within a
1536 frame or outline, the sign area shall be the area inside the frame or outline. For double-faced signs, only
1537 one side shall be measured for the area.
1538
- 1539 Sign, Bench, is a sign on any part of the surface of a bench or seat placed adjacent to a public street.
1540
- 1541 Sign, Building Identification, is a sign on a building with a main entry that depicts only the name of the
1542 building. Building identification signs on the exterior of a building or behind a glass enclosure, window,
1543 glass facade, or any other transparent surface material, and visible from the outside of the building are
1544 considered signs.
1545
- 1546 Sign, Changeable Copy, means a sign which has message characters that are not permanently attached to
1547 the sign, but which are attached to permit numerous changes of the message.
1548
- 1549 Sign, Construction, is a temporary sign erected on the premises on which construction is taking place,
1550 during the period of such construction, identifying those engaged in construction on any building site. This
1551 includes the builder, contractor, developer, architect, engineer, financing entity, or other persons or
1552 artisans involved in construction.
1553
- 1554 Sign, Development, is a temporary sign advertising the sale or rental of structures under construction
1555 upon land which is under development.
1556
- 1557 Sign, Directional, a sign whose message is exclusively limited to guiding the circulation of motorists or
1558 pedestrians on the site.
1559
- 1560 Sign, Directory, is a sign which lists only the names of individuals or businesses within a building, or
1561 contiguous buildings on one premises.
1562
- 1563 Sign, Double-Faced, is a sign with two identical display areas against each other or where the interior
1564 angle formed by the display areas is 60 degrees or less, where one face is designed to be seen from one
1565 direction and the other side from another direction.
1566
- 1567 Sign, Façade, see "wall sign."
1568
- 1569 Sign Face, is that portion of the sign, excluding the supporting structure, where copy, font, visual
1570 depictions, or otherwise can be placed.
1571
- 1572 Sign, Free Standing, includes ground signs, pole signs, and monument signs which are supported by one
1573 or more columns, uprights, or braces anchored into the ground independent of support from any building.
1574
- 1575 Sign, Fuel Pump Valance, is any permanent sign attached to the top of a fuel pump.
1576
- 1577 Sign, Garage Sale, is any sign pertaining to the sale of personal property in, at or upon any residentially
1578 zoned property located in the City, to include yard sales, moving sales, and the like. Garage sales shall
1579 include all such sales and include the advertising of the holding of any such sale, of the offering to make
1580 any sale, whether made under any other name such as lawn sale, yard sale, moving sale, front yard sale,

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1581 back yard sale, home sale, attic sale, rummage sale, patio sale, flea market sale, or any similar designation.
1582 Limited to five square feet in area. See "Residential Transitory Sign".

1583
1584 Sign, Ground, see Sign, Monument.
1585

1586 Sign Height, means the vertical distance to the highest point of a sign. Freestanding signs shall be
1587 measured from the crown of the nearest abutting street or sidewalk.

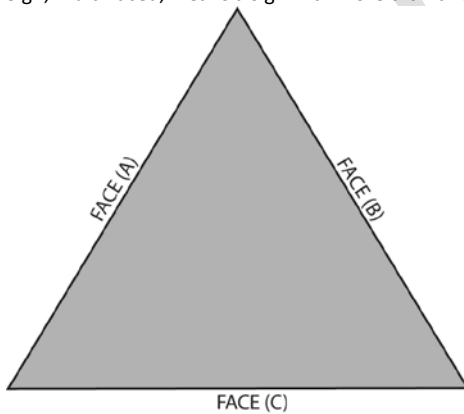
1588
1589 Sign, Identification, is a sign which contains no advertising and the message of which is limited to
1590 conveying street numbers, the name, address, and numbers of the premises, or the name of the owner
1591 or occupant of the premises.

1592
1593 Sign, Illuminated, is a sign in which a source of light is used to make the message readable. This shall
1594 include internally and externally lighted signs.

1595
1596 Sign, Instructional, is a sign conveying instructions with respect to the premises on which it is maintained,
1597 such as, but not limited to, "exit," "entrance," "parking," or similar instructions.

1598
1599 Sign, Monument, is a freestanding sign supported primarily by an internal structural framework or
1600 integrated into landscaping or other solid structural features other than support poles.

1601
1602 Sign, Multi-faced, means a sign with more than two (2) faces.



$$\text{TOTAL SIGN AREA} = \text{FACE (A)} + \text{FACE (B)} + \text{FACE (C)}$$

1603
1604 Sign, Neighborhood, means signs designating separate and distinct neighborhoods which may be part of
1605 a larger subdivision or have distinct characteristics which are unlike those in adjoining areas.

1606
1607 Sign, Nonconforming, is any sign which does not comply with the regulations of this sign code, or
1608 subsequent amendments.

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- 1609
1610 Sign, Off-Premises, is a sign identifying, advertising or directing the public to a business, merchandise,
1611 service institution, residential area, entertainment, or activity which is located, sold, rented, based,
1612 produced, manufactured, furnished, or taking place at a location other than on the property on which the
1613 sign is located.
1614
1615 Sign, On-Premises, is any structure, device, display board, screen, surface, or wall, characters, letters, or
1616 illustrations placed thereto, thereon, or there under by any method or means whatsoever where the
1617 matter displayed is used for advertising on the premises, a product or service, actually or actively offered
1618 for sale or rent thereon or therein.
1619
1620 Sign, Painted, is any sign painted on any surface, including the roof of any building, visible from any public
1621 right-of-way.
1622
1623 Sign, Pole, is a freestanding sign that is affixed, attached, or erected on a pole that is not itself an integral
1624 part of or attached to a building or structure.
1625
1626 Sign, Political, means any temporary sign announcing or supporting political candidates or issues in
1627 connection with any local, county, state, or national election.
1628
1629 Sign, Portable, is any sign that is designed to be transported, including but not limited to signs: with wheels
1630 removed; with chassis or support constructed without wheels; designed to be transported by trailer or
1631 wheels; attached temporarily or permanently to the ground, structure, or other signs; menu and sandwich
1632 boards, searchlight stands; and tethered inflatable signs.
1633
1634 Sign, Projecting Blade, is any sign hung or projecting perpendicular to the building. Maximum allowable
1635 area is four square feet.
1636
1637 Sign, Projecting, is a sign projecting at an angle from the outside wall or walls of any building which is
1638 supported by only one rigid support, irrespective of the number of guy wires used in connection
1639 therewith.
1640
1641 Sign, Public, is a sign placed under the authority of duly authorized government officials, including traffic
1642 signs, legal notices, public safety signs, or signs placed by such authorized official for the public health,
1643 safety, welfare, or convenience.
1644
1645 Sign, Real Estate, is any sign installed by the owner or his agent on a temporary basis, advertising the real
1646 property upon which the sign is located for rent, sale, or lease.
1647
1648 Sign, Residential Transitory, means specific types of temporary signs which may be displayed for three
1649 consecutive days only. These signs are intended to facilitate garage sales, estate sales, moving sales, yard
1650 sales, neighborhood meetings, HOA meetings and the like. See "Garage Sale Sign" and "Estate Sale Sign".
1651
1652 Sign, Revolving, see Animated Sign
1653

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- 1654 Sign, Roof, is any outdoor advertising display sign, installed, constructed, or maintained above the roof
1655 line of any building.
1656
- 1657 Sign, Sandwich, see A-Frame Sign
1658
- 1659 Sign, Rotating, see Animated Sign
1660
- 1661 Sign, Snipe, is any sign of any size, made of any material, including but not limited to paper, cardboard,
1662 wood, and metal, when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to trees,
1663 poles, fences or other objects, and the advertising matter appearing thereon is not applicable to the
1664 premises upon which said sign is located.
1665
- 1666 Sign, Special Event, is any temporary sign announcing special events.
1667
- 1668 Sign, Swinging, is any sign that swings freely from or on supports regardless of the guy wires used in
1669 connection therewith.
1670
- 1671 Sign, Temporary, is a sign that advertises for a specific limited period of time, political candidates, parties,
1672 or issues, a building under construction, business grand opening, other special events and model homes.
1673 Sign, Time and Temperature, is a display containing illuminated numerals flashing alternatively to show
1674 the time and temperature.
1675
- 1676 Sign, Trailer, is any sign installed on a frame or structure with wheels other than a motor vehicle.
1677 Sign, Under Canopy, is any sign hung under a canopy perpendicular to the building. No permit required.
1678 Maximum area is four square feet.
1679
- 1680 Sign, V-Shaped, is any sign which has two faces which are not parallel. The area of each of the two faces
1681 will be added together to calculate the allowable area for the sign face dimension. A V-shaped sign is not
1682 a double-faced sign.
1683
- 1684 Sign, Vehicle, is a sign affixed to or painted on a transportation vehicle or trailer for the purpose of
1685 identification or advertisement. Vehicle signs shall not include political signs, bumper stickers, or signs
1686 required by law, ordinance, or regulations.
1687
- 1688 Sign, Wall (Facade Sign), is any sign installed parallel to or flush against the outside facade of a building.
1689 Such signs, and logos located on the exterior of a building or behind a glass enclosure, window, glass
1690 facade, or any other transparent surface material, and visible from the outside of the building, are
1691 considered wall signs and are calculated as part of the total facade signage permitted. Such signs must
1692 conform to the Sign Code. See Building Identification signs.
1693
- 1694 Sign, Window, is any sign which is attached or painted, either permanently or temporarily, on the interior
1695 or exterior of a window, glass door, glass wall, or which is placed within 12 inches of the window, glass
1696 door, or glass wall and is intended to be viewed from the outside.
1697
- 1698 **Chapter 7. Wireless Telecommunications Definitions**
1699

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 11 – DEFINITIONS**

- 1700 This chapter defines terms related to requirements in Article 5, Chapter 12. Wireless
1701 Telecommunication.
1702
- 1703 Alternate Tower Structure, means man-made trees, clock towers, bell steeples, light poles, and similar
1704 alternative-design mounting structures that camouflage or conceal the presence of antennas or
1705 towers.
1706
- 1707 Antenna, means any exterior transmitting or receiving device mounted on a tower, building, or
1708 structure and used in communications that radiates or captures electromagnetic waves, digital
1709 signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications
1710 signals, or other communication signals.
1711
- 1712 Antenna Support Structure, is any building or other structure, other than a tower, which may be used
1713 for location of wireless telecommunications facilities.
1714
- 1715 Camouflaged, means any wireless communications facility which is designed to blend into the
1716 surrounding environment or that camouflages or conceals the presence of the tower or wireless
1717 telecommunication facility to the extent that the average person would be unaware of its nature as a
1718 tower, antenna, or wireless telecommunications facility. Examples of camouflaged facilities include, but
1719 are not limited to, man-made trees, clock towers, bell steeples, flag poles, light poles, and similar
1720 alternative-design mounting structures. Examples of camouflaged antennas include, but are not limited
1721 to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the
1722 existing structure, and antennas integrated into architectural elements.
1723
- 1724 Co-location, is the act of erecting antenna(s) of a wireless service provider on a tower or an existing
1725 antenna support structure already supporting an antenna.
1726
- 1727 Designed Service Study, is a study of the configuration and manner of deployment of wireless services
1728 the wireless provider has designed for an area as part of its network that demonstrates whether or not
1729 existing towers or tall structures in the search can be utilized for co-location.
1730
- 1731 FAA, means the Federal Aviation Administration.
1732
- 1733 FCC, means the Federal Communications Commission
1734
- 1735 Monopole, is a style of free-standing tower that is composed of a single shaft, usually composed of two
1736 or more hollow sections that are in turn attached to a foundation, with external antennas. This type of
1737 tower is designed to support itself without use of guy wires or other stabilization devices.
1738
- 1739 Pole-Mounted, means an antenna attached to or upon an electric transmission or distribution pole, a
1740 streetlight, a traffic signal or similar facility within the public right-of-way or a utility easement. A utility
1741 pole-mounted facility shall not be considered a wireless telecommunication facility.
1742
- 1743 Structure-Mounted, means a wireless telecommunications facility, tower or antenna which is mounted
1744 to an existing building or structure not otherwise meant to support a wireless telecommunication
1745 facility, tower or antenna.

**CITY OF CAPE CORAL, FLORIDA
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1746
1747 Wireless Communication, is the transmission and reception of voice, data or video transmission via radio
1748 frequency (RF) signals through electromagnetic energy.
1749

1750 Wireless Communication Facility (WCF), is any cables, wires, lines, wave guides, antennas, and other
1751 equipment associated with the transmission or reception of telecommunications installed upon a tower
1752 or antenna support structure, including ground-based equipment in direct support of such transmission
1753 or reception. However, the term “Wireless communication facility” shall not include amateur radio
1754 antennas.
1755

1756

DRAFT

ARTICLE XI: DEFINITIONS

Section

~~11.1 Definitions.~~

~~Unless the context clearly indicates a different meaning, the following definitions shall be used to interpret the provisions of these Land Use and Development Regulations.~~

~~Words whose meanings are self-evident as used in this ordinance are not defined here. Words used in the present tense shall include the future; the singular includes the plural, and vice versa.~~

~~The word "shall" is mandatory; the word "may" is permissive. The word "includes" shall not limit a term to the specific examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character. The terms "land use" and "use of land" shall be deemed also to include building or structure use and use of building or structure.~~

CHAPTER 1. GENERAL PROVISIONS

Section 11.1. Purpose and Intent

- A. This chapter is intended to define terms used in the Land Development Code (LDC) and provide clarity in the LDC.
- B. Unless the context clearly indicates a different meaning, the following definitions shall be used to interpret the provisions of the LDC.
- C. Words whose meanings are self-evident as used in this Code are not defined here. Undefined terms that are commonly used may be defined using a dictionary. Words used in the present tense shall include the future; the singular includes the plural, and vice versa.
- D. Certain definitions may not be in alphabetical order and may be organized according to a common term or subject heading.
- E. The definitions in the Article may be different from the definitions used in the City of Cape Coral Code of Ordinances.

Section 11.2. Definitions

Abandoned Structure, is any structure which has ceased to be used for its designed and intended purpose.

Abandonment, is the relinquishment or cessation of the use of property by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property. Often in reference to an easement or a right-of-way.

~~**ABUTTING PROPERTIES**~~**Abutting Properties**, Properties which share a common border or property line.

Access, is the place, means, or way by which vehicles or pedestrians obtain ingress and egress to a property or use.

Access Drive, is a driving surface leading from a right-of-way to a parking area.

Accessory Dwelling Unit (ADU), is a separate housekeeping unit from the with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure.

Accessory Building or Structure, is a subordinate building or structure, the use of which is customarily incidental the main building or to the main use of the land and which is on the same site as the main building or use.

~~**ACCESSORY USE.** A use customarily incidental to the principal use of the property, and unless otherwise specifically provided by the City of Cape Coral Land Use Regulations. (See also [§ 3.1.](#))~~

Accessory Use, is a use that is incidental to and subordinate to the main building or use of land and that is on the same lot and under the same ownership in all respects.

Acre, is a land area of 43,560 square feet.

~~**ACTIVE USE.** A building use designed for human occupation that attracts pedestrian activity; provides a direct view to adjacent rights of way or open spaces through transparent windows and/or doors or openings. Commercial active uses generally provide access to the general public and may include, but are not limited to, retail, personal services, offices, restaurants, coffee shops, libraries, municipal facilities, common areas and entrance lobbies. Residential active uses generally include, but are not limited to, dwelling units, common areas, entrance lobbies, lounges, and gyms.~~

Addition, is any construction that increases the size of a building in terms of site coverage, height, length, width, or gross floor area.

Adjoining or Abutting, means two properties share at least one common point or property line.

Adjacent, means two properties that are separated by a public right of way, canal, or alley.

Adjacent Parcel, is any waterfront parcel that is not an end parcel, but that abuts an end parcel or a corner parcel.

~~**ADJACENT PROPERTIES.** See **ABUTTING PROPERTIES.**~~

~~**ADJOINING PROPERTIES.** See **ABUTTING PROPERTIES.**~~

(Ord. 15-12, 9-10-2012)

~~ADMINISTRATIVE OFFICIAL.~~ The Director of the Department of Community Development or duly authorized representative.

~~ADMINISTRATIVE OFFICE.~~ An office which is customarily ancillary and supportive to the permitted principal use of the property and which is used for clerical and administrative functions of the principal use. This term shall include managers or association offices for residential rental property, subdivisions, recreation vehicle parks and similar type activities.

Adult Day Care Center, means any building or buildings, operated for profit or not, which provides daytime, basic care services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services.

Affordable Housing, is housing with a sale or rental cost, including taxes and utilities, of 30 percent or less of the total monthly household income of low income households.

~~AGRICULTURAL BUILDING OR STRUCTURE.~~ Any building or structure accessory to the principal farming, fisheries, animal specialty farm or plant nurseries use of the land.

Agricultural Building, are structures intended primarily or exclusively for support of an agricultural function, including barns, silos, water towers, windmills, and greenhouses.

Agricultural Land, is land used actively for the production of food, fiber, or livestock.

~~AGRICULTURAL OR FARM EQUIPMENT AND SUPPLY ESTABLISHMENTS.~~ A premises, or portion of a premises, occupied by an establishment primarily engaged in the retail selling of farm equipment machinery, hardware, production supplies and other miscellaneous farm and garden supplies directly to ultimate consumers and not for resale. **~~FARM EQUIPMENT AND SUPPLY ESTABLISHMENTS~~** may include farm equipment repair departments provided such repair departments are incidental and accessory to the principal retail selling of farm equipment and supplies.

~~AGRICULTURAL or FARMING.~~ A premises, or portion of a premises, occupied by an establishment primarily having as the principal purpose of business the production for sale of field crops, fruit, tree nuts, vegetables, livestock, livestock products, poultry hatcheries and animal husbandry activities.

~~AGRICULTURAL OR FARMING SERVICE ESTABLISHMENTS.~~ A premises, or portion of a premises, occupied by an establishment in which a person, or persons, practice a vocation that performs a type of labor, act or work off the premises that primarily results in a variety of farming services such as crop dusting, vegetable and fruit picking, grain cleaning, harvesting, plowing and similar operations normally on a contract basis or for a fee or charge.

Agricultural Uses, means farming, including plowing, tillage, cropping, seeding, cultivating, or harvesting for the production of food and fiber products (except commercial logging and timber harvesting operations); the grazing or raising of livestock (except in feed yards); aquaculture; sod production;

orchards or groves; Christmas trees; nurseries; and the cultivation of products as part of a recognized commercial enterprise.

AIRCRAFT ESTABLISHMENTS. A premises, or portion of a premises, occupied by an establishment primarily engaged in the retail selling of new or used aircraft and related new parts and accessories directly to the ultimate consumer on the premises and not for resale. Aircraft establishments may include repair departments; provided such repair departments are incidental and accessory to the principal retail selling of aircraft and related aircraft accessories.

AIRCRAFT LANDING FACILITY, PRIVATE. A facility, which may or may not be opened to the public, whose primary purpose is to accommodate the take-off and landing of non-commercial passenger aircraft.

Alley, is a right-of-way that affords a secondary means of vehicular access to abutting properties.

Alteration, means any enlargement, addition, relocation, remodel, change in number of units, development, or change to a facility, other than painting and other changes to finishes.

ALTERED. Any change or addition to the load-bearing members or the foundation of a structure.

Alternate Tower Structure, means man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Ambient, is the surrounding level of light, noise, air, or odor.

Amplified Sound, means sound augmented by any electronic or other means that increases the sound level or volume. Public background sound or amplified sound caused by the police or fire departments of the city in the performance of their official duties shall not be considered amplified sound.

AMUSEMENT PARK ESTABLISHMENTS. Known as amusement parks, kiddie parks, theme parks, etc. which operate a number of attractions such as mechanical rides, amusement devices, exhibits, and refreshment stands or picnic grounds, for a profit.

ANIMAL KENNELAnimal Kennel., is Aaan establishment where more than four dogs or cats (except litters of animals of not more than six months of age) are kept, raised, cared for or boarded, for a fee.

ANIMAL SHELTER. As differentiated from a kennel, any place so designed to provide for the temporary accommodation of five or more stray common household pets until appropriate disposition of such animals can be made.

Animal Shelter, is any place so designed to provide for the temporary accommodation of five or more stray common household pets until appropriate disposition of such animals can be made.

ANIMAL SPECIALTY FARMS. A premises, or portion of a premises, occupied by an establishment primarily having as the principal purpose of business the production for sale of animal specialties, such as apiaries, dog farms, horse farms, mink farms and rabbit farms.

Antenna, means any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other communication signals.

Antenna Support Structure, is any building or other structure, other than a tower, which may be used for location of wireless telecommunications facilities.

ANTIQUE STORES. A building, or portion of a building, occupied by an establishment primarily engaged in the retail selling of antique furniture, home furnishings and objects of art and related antique accessories directly to ultimate consumers on the premises. Merchandise and goods sold by such establishments are normally not purchased for resale purposes.

Arbor, is a structure on which plants and vines can grow.

ARCADE. A series of piers topped by arches that support a permanent roof.

(Ord. 101-03, 10-20-2003; Ord. 91-05, 11-14-2005)

Arcade, Architectural, means a succession of arches supported by columns or piers, or a covered walkway enclosed by a line of arches on one or both sides.



Architectural Feature, is any prominent or characteristic part of a building, including windows, columns, awnings, marquee, façade, or fascia.

Art, Public, is any visual work of art displayed open to the public view on public or private property which does not contain characteristics of an advertisement for a business.

ARTISAN BREWERY. A use that brews beer, ale and similar beverages on a small scale and whose annual production of beer is capped by the City of Cape Coral in contrast to a full-fledged brewery that may produce an unlimited volume of beer. These establishments may include a tasting room and retail space to sell beer produced on the premises, as well as beer, spirits and wine produced elsewhere, along with related retail items and food.

(Ord. 30-14, § 2, 10-20-2014; Ord. 36-15, § 4, 8-31-2015)

~~ARTISAN DISTILLERY.~~ A use that distills spirituous beverages on a small scale and whose annual production of spirits is capped by the City of Cape Coral in contrast to a full-fledged distillery that may produce an unlimited volume of spirits. These establishments may include a tasting room and retail space to sell spirits produced on the premises, as well as spirits, beer, and wine produced elsewhere, along with related retail items and food.

(Ord. 30-14, § 2, 10-20-2014; Ord. 36-15, § 4, 8-31-2015)

~~ARTISAN WINERY.~~ A use that produces wine on a small scale and whose annual production of wine is capped by the City of Cape Coral in contrast to a full-fledged winery that may produce an unlimited volume of wine. These establishments may include a tasting room and retail space to sell wine produced on the premises, as well as wine, beer, and spirits produced elsewhere, along with related retail items and food.

(Ord. 30-14, § 2, 10-20-2014; Ord. 36-15, § 4, 8-31-2015)

~~ASSISTED LIVING FACILITY.~~ A facility as defined by F.S. § 400.402, as same may hereafter be amended.

(Ord. 68-98, 11-30-1998)

Assisted Living Facility (ALF) or Nursing Home, means any building, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

Auditorium or Assembly Hall, is a building with facilities to accommodate groups of people.

~~AUTOMOTIVE PARTS STORE.~~ Establishments primarily engaged in the retail sale of new or used parts and accessories for automobiles, truck trailers, and motorcycles but not providing installation services. This term does not include auto-wrecking yards.

~~AUTOMOTIVE PARKING ESTABLISHMENTS.~~ A premises, or portion of a premises, occupied by an establishment primarily engaged in providing commercial parking facilities on open air lots, sites or structures for relatively short periods of time directly to meet the needs of ultimate consumers normally for a fee or charge.

~~AUTOMOTIVE SERVICE ESTABLISHMENTS.~~ A premises, or portion of a premises, occupied by an establishment primarily engaged in furnishing car washing, waxing, detailing, polishing or similar services except repairs, intended for and directly incidental to the needs of ultimate consumers on the premises normally for a fee or charge.

~~AUTOMOBILE SERVICE STATION, LIMITED.~~ An establishment primarily engaged in the retail sale of motor fuel and lubricants, but which may also include facilities for washing, waxing,

detailing, polishing, greasing, tire repair (no recapping or vulcanizing) and other minor incidental repairs. (See also **SELF-SERVICE FUEL PUMP STATION**.)

AUTOMOBILE SERVICE STATION, FULL-SERVICE. An establishment similar to an automobile service station, limited, but which also provides emergency road service, including towing and emergency repairs and services, provided however, such establishment is not primarily engaged in work or services listed as automotive repair and service.

AUTOMOBILE TOWING ESTABLISHMENT. A premises or portion of a premises occupied by an establishment in which a person, or persons, practice a vocation or occupation that performs a type of labor, act, or work off the premises that results in the towing of motor vehicles. Tow trucks or wreckers may be stored on the premises, but no towed vehicles shall be stored on the premises.

AUTOMOBILE WRECKING OR WRECKING YARD. A premises or portion of a premises engaged in the dismantling, crushing, shredding, or disassembly of used motor vehicles or trailers, or the storage sale, or dumping of dismantled, partially dismantled, or wrecked vehicles or their parts. (See also **JUNK YARD**.)

AUTOMOTIVE SERVICE CENTERS. A grouping of consumer-oriented automotive establishments, planned and developed as a single structure or under a unified architectural theme, owned and managed as a unit and providing a range of goods, services and repair specific to the automotive market; and providing customer and employee parking off-street and on-site.

AUTOMATIC TELLER MACHINE (ATM). Unattended banking station located outside of, or away from the principal bank building and in operation beyond normal lobby hours; operated by computerized equipment and capable of carrying out specific banking transactions.

AVIARY. A structure, ancillary to the principal dwelling, used for the confinement of birds. Such use shall be non-commercial only.

AWNING. A flexible roof-like cover that extends out from an exterior wall and shields a window, doorway, sidewalk, or other space below those elements.

Awning, is a roof-like cover, often of fabric, metal, or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, door.

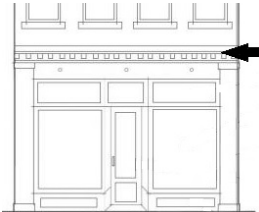


(Ord. 101-03, 10-20-2003)

BALCONY. An open portion of an upper floor that extends beyond a building's exterior wall and is not supported from below by vertical columns or piers.

(Ord. 91-05, 11-14-2005)

Banding, means a projection of masonry, stucco, or similar material around a building or part of a building, which is attached to the building.



Banner, is any sign having the characters, letters, illustrations, or ornamentations applied to cloth, paper, or fabric of any kind with only such material for foundation. The word "banner" shall also include pennant or any animated, rotating, or fluttering device, with or without lettering or design, and manufactured and placed for the purpose of attracting attention.

BAR or COCKTAIL LOUNGE. Any establishment devoted primarily to the retailing and on-premises drinking of malt, vinous, distilled, or other alcoholic beverages.

Base Flood, is a flood having a 1% chance of being equaled or exceeded in any given year. The base flood is commonly referred to as the "100-year flood" or the "1%-annual chance flood."

Base Flood Elevation, is the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

Basement, is the portion of a building having its floor subgrade (below ground level) on all sides.

BATHROOM. A separate room within a structure containing, at least, a bathtub or shower, a commode and a washbowl.

Bathroom, is a room in a building containing, at a minimum, a toilet and a sink.

BED AND BREAKFAST ESTABLISHMENTS. A residence which provides sleeping accommodations and breakfasts on a short-term basis for paying guests. Such establishments may also provide lunch and supper. A **BED AND BREAKFAST** shall have no more than six sleeping rooms of which one must be occupied by the owner or manager. Such establishments shall not be construed as lodging houses, motels, hotels, or boarding or rooming houses.

Bed and Breakfast, means a transient lodging establishment, generally in a single-family dwelling or detached guesthouses, primarily engaged in providing overnight or otherwise temporary lodging for the general public and may provide meals for compensation.

Berm, is a mound or earthen ridge placed above natural or existing grade for the purpose of shielding, screening, mitigating impacts from or otherwise separating areas of dissimilar use, to provide visual interest, accommodate landscape improvements, or control the direction and flow of water.

Best Management Practices (BMP), is the combination of conservation measures, structures, or management practices that reduces or avoids adverse impacts of development on adjoining site's land, water or waterways, and waterbodies.

Bike Lane, is a corridor expressly reserved for bicycles.

Bio-Retention Area, is a shallow planted depression designed to retain or detain stormwater before infiltration or discharge. Plants used in bio-retention areas must be able to survive without fertilizer or other artificial means.

Block, is land typically surrounded by streets or other transportation or utility rights-of-way, or by physical barriers such as bodies of water or public open spaces. Block may also mean a group of parcels within a geographic area.

~~**BOARDING OR ROOMING HOUSE.** A building, or portion of a building, in which five or more sleeping rooms are provided for occupancy by nontransient persons with or without meals for compensation on a prearranged weekly or monthly basis. A **BOARDING OR ROOMING HOUSE** shall include living quarters and may contain independent cooking facilities designed for the resident manager only. (See also Art. III, § 3.3.5.)~~

~~**BOAT.** Any vessel, watercraft, or other artificial contrivance used, or which is capable of being used, as a means of transportation, mode of habitation, or as a place of business, professional, or social association on waters of Lee County, Florida, including:~~

- ~~1. Foreign and domestic watercraft engaged in commerce;~~
- ~~2. Passenger or other cargo-carrying water craft;~~
- ~~3. Privately-owned recreational watercraft;~~
- ~~4. Airboats and seaplanes; and~~
- ~~5. Houseboats or other floating homes.~~

Boat, is a vessel designed for operation as a watercraft propelled by oars, sails, or internal combustion engine(s). A boat shall not be considered as a recreational vehicle even though may have facilities for temporary living quarters.

Boat Canopy, is a removable protective cover installed to cover a boat located in the principal mooring area of a dock or over a boat lift; a boat canopy designed and intended for the purpose of protecting a marine vessel from damage from the elements and is fastened to, erected on, or installed on a marine improvement. Covers that protect marine vessels from the elements, but that fasten only to the marine vessel and not, in any way, to a marine improvement shall not be deemed to be boat canopies.

~~**BOAT PARTS STORE.** Establishments primarily engaged in the retail sale of watercraft parts and accessories (excluding trailers), but not providing installation service.~~

~~**BOAT REPAIR AND SERVICE.** Establishments primarily engaged in minor repair service to small watercraft, including the sale and installation of accessories.~~

Boat Sales, is an establishment where boats or other marine vessels such as kayaks, canoes, or smaller motorized watercraft area sold.

Boat slip, is a space designed for the mooring of a single watercraft. Such spaces may extend from a dock or shoreline or be created from a cut-in.

~~**BOAT YARD.** A boating or harbor facility located on or having direct access to navigable water engaged in building, maintaining and performing extensive repair on boats and small ships, marine engines and equipment, and including all uses also found in a marina. However, a **BOAT YARD** shall be distinguished from a marina by the larger scale and greater extent of work done in a boatyard and by the use of dry dock, marine railway or large capacity lifts used to haul out boats for maintenance or repair. (See **MARINA**.)~~

Borrow Pit, see "Extraction".

~~**BREW PUB.** A restaurant, bar, or nightclub with facilities that produces beer or wine for on-site consumption and retail sale to restaurant, bar, or nightclub patrons. Nonalcoholic beverages may also be produced for on-site consumption and retail sale. A brewpub differs from an artisan brewery in that a greater percentage of beer or wine produced at a brewpub is generally consumed on the premises.~~

Brewery, is a facility with a capacity to manufacture more than 5,000 barrels of beer or other similar beverages a year.

Brewpub, is a restaurant or bar with facilities that produces beer or wine for on-site consumption and retail sale to restaurant, bar, or nightclub patrons. Nonalcoholic beverages may also be produced for

on-site consumption and retail sale. A brewpub differs from a craft brewery in that a greater percentage of beer or wine produced at a brewpub is generally consumed on the premises.

Buffer, means open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically and visually separate one use or property from another.

(Ord. 30-14, § 2, 10-20-2014; Ord. 36-15, § 4, 8-31-2015)

~~**BUILDABLE LAND.** Land remaining after the applicable minimum yard and green area requirements are met.~~

(Ord. 68-98, 11-30-1998)

~~**BUILDING.** Any structure either temporary or permanent, having a roof intended to be impervious to weather, and used or built for the shelter or enclosure of persons, animals, ~~chattels,~~ or property of any kind. This definition ~~shall include tents, awnings, cabanas, or vehicles situated on private property and serving in any way the function of a building, but~~ does not include screened enclosures not having a roof impervious to the weather. In addition, the area of the pool deck or other impervious surfaces, exclusive of pools and spas that may be located under screened enclosures, shall be included as part of the building.~~

(Ord. 71-91, 9-23-1991)

~~**BUILDING, FRONT OF.** That side of a building that faces toward the street right-of-way or easement serving as the means of vehicular access to the property.~~

~~**BUILDING FRONTAGE.** The width of a building facade, or portion thereof, that faces, is generally parallel or oriented toward a street, and is located between applicable minimum and maximum setback lines or within build-to-zones. For purposes of this definition, outdoor areas, or portions thereof, such as, but not limited to, porches and decks, meeting the above criteria shall be considered building frontage. Additionally, a building's facade that faces, is generally parallel or oriented toward a street, and serves to create a courtyard that is located between the facade and the street shall be considered a building frontage regardless of its placement relative to setback lines or build-to-zones. Where required, building frontage shall be measured as a horizontal linear dimension projected in a single plane and expressed as a percentage of the lot frontage.~~

(Ord. 91-05, 11-14-2005; Ord. 15-12, 9-20-2012)

~~**BUILDING HEIGHT.** The vertical distance measured from the lowest finished floor elevation to the lowest point of the highest horizontal eave or to the highest point of the highest parapet wall, whichever is higher.~~

(Ord. 68-98, 11-30-1998)

~~**BUILDING LINE.** A line drawn parallel to the front lot line and tangent to the nearest part of the principal building and extending from side lot line to side lot line.~~

~~BUILDING PERMIT.~~ Any building or construction permit required under the Building Code of Cape Coral, Florida or this ordinance.

~~BUILDING WALL.~~ An exterior wall of a building that serves to provide enclosure for interior spaces and protection from natural elements.

~~(Ord. 15-12, 9-10-2012)~~

Build-to Line, are locations where a proposed development shall locate the linear footage of the building's edge, thus ensuring a uniform (or more or less even) building façade line on the street. Build-to lines may correspond to the property line or may be offset from the property line.

~~BUILD-TO-ZONE.~~ A build-to zone is a range of allowable distances from a street right-of-way in which a building shall be built in order to create a generally uniform line of buildings along a street.

~~(Ord. 91-05, 11-14-2005)~~

Buildable Area, is that portion of a lot exclusive of the required setbacks or open spaces upon which improvements are permitted.

Building, Attached, is a building which has at least part of a wall in common with another building, or which is connected to another building by a roof.

Building Front, means a building wall that faces a public street, a private street, or a common open space. A building may have more than one building front.

Building, Primary or Principal, is a building in which the primary use of the lot, on which the building is located, is conducted.

Building Rear, means a building wall that does not face a public street, a private access way, or a common open space. A building may have more than one building rear.

Business Front Foot, means the lineal distance of the building space occupied by the particular business measured on a straight-line parallel to the street. If a building fronts on two (2) or more streets, the property owner shall be given the option of selecting one (1) street frontage for the purpose of computing allowable sign area. Where a business does not parallel a street, the front foot shall be measured along the exterior of the building space occupied by the particular business.

BUSINESS OFFICES. Office space for the conduct of commercial activities, excluding retail sales.

By-right, are uses that are permitted without special conditions or a public hearing.

Caliper – Palm, is the diameter of the palm trunk taken at the widest portion, measured between one foot and three feet from the ground.

Caliper – Tree, is the measurement of the average of the largest diameter of a tree, and that perpendicular to it, measured 12 inches above the ground.

~~**CAMERA SHOP.** Establishment primarily engaged in the retail sale of cameras, film and other photographic supplies and equipment. Establishments primarily engaged in finishing films are listed as photofinishing laboratories.~~

Camouflaged, means any wireless communications facility which is designed to blend into the surrounding environment or that camouflages or conceals the presence of the tower or wireless telecommunication facility to the extent that the average person would be unaware of its nature as a tower, antenna, or wireless telecommunications facility. Examples of camouflaged facilities include, but are not limited to, man-made trees, clock towers, bell steeples, flag poles, light poles, and similar alternative-design mounting structures. Examples of camouflaged antennas include, but are not limited to, architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, and antennas integrated into architectural elements.

Campground, is an area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar movable or temporary sleeping quarters of any kind. A campground shall not be considered an RV Resort as defined in this article.

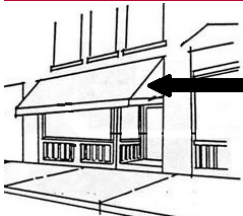
Canal End Line, is a line or lines drawn from the farthest point where the canal meets land perpendicular to the sides of the canal, or to the sides of the canal as extended if necessary. If the side of a canal curves near its end point, such canal side shall be extended from the point immediately preceding where it begins to curve. See Diagram 5.5.4.A.

Canal Width, is the width of the canal measured from seawall to seawall using the City's Geographic Information Systems (GIS).

~~**CANOPY.** An awning-like protection from a wall that is made of rigid materials and is permanently attached to a building's facade.~~

(Ord. 101-03, 10-20-2003)

Canopy, is a roof-like structure serving the purpose of protecting pedestrians from rain and sun, which may project from a building or be free standing.



Captain's Walk, is a walkway that is parallel to the seawall with a maximum width of six feet.

~~**CARETAKER/WATCHPERSON RESIDENCE.** A residence, generally located on a commercial site, used by the watchperson or caretaker of the establishment. Such a structure, if temporary, may be a mobile home. If permanent, the structure may be no less than 650 square feet and it must contain a kitchen, bathroom and living area.~~

~~**CARPORT.** A freestanding or attached structure, consisting of a roof and supporting members such as columns or beams, unenclosed from the ground to the roof on at least two sides, and designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory.~~

~~**CARRY-OUT/DELIVERY FOOD SERVICE ESTABLISHMENTS.** An establishment engaged in the sale of food and beverages in a ready-to-consume state for consumption off the premises as carry-out or delivery orders only. Such establishments shall contain no seating areas for on-site consumption, but they may have drive-thru facilities.~~

~~**CAR WASH.** Establishments primarily engaged in washing cars or in furnishing facilities for the self-service washing of cars.~~

~~**CEMETERIES.** An area of land set apart for the sole purpose of the burial of bodies of dead persons and for the erection of customary markers, monuments, and mausoleums.~~

Cemetery, is land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities. Mortuaries shall be included when operated within the boundary of such cemetery.

~~**CEMETERY, PET.** See **PET CEMETERIES. CERTIFICATE OF USE.** A certificate, required by appropriate authority under the provisions of this ordinance, which authorizes the occupancy of a structure or premises and, is required prior to occupancy, change or use and under other specific conditions.~~

Centerline of the Marine Improvement Area, means a line extended from the center of the parcel's water frontage line to the center of the offset line of the parcel's marine improvement area. See Diagram 5.5.4.F.

Certificate of Completion, is documentation that a structure, system(what kind of system?), site development or subdivision infrastructure is complete and for certain types of permits is released for use and may be connected to a utility system.

Certificate of Occupancy, is the official certification that a premises may be used or occupied pursuant to the State Building Codes.

Channel or Canal, is an open conduit, either naturally or artificially created, which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water.

~~**CHILD CARE FACILITY.** Any child care center or child care arrangement which provides child care as defined by F.S. § 402.302(2), as same may hereafter be amended.~~

(Ord. 3-97, 2-14-1997; Ord. 98-03, 10-14-2003) _____

Childcare Facility, includes any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether operated for profit.

Civic Building, is a building specifically designed for a civic function. Buildings and structures for public or private assembly, including places of worship and schools, shall be considered civic buildings.

CITY MANAGER. The City Manager for Cape Coral, Florida, or his or her duly authorized representative.

~~**CIVIC BUILDING.** A building that is allowed greater design flexibility due the prominence of its public functions and often its location. **CIVIC BUILDINGS** include government buildings, churches, synagogues, libraries, schools, auditoriums and public recreation facilities. **CIVIC BUILDINGS** do not include retail buildings, residential buildings, or privately owned office buildings, regardless of use.~~

(Ord. 91-05, 11-14-2005)

Clearing of Vegetation, means removal of plants and or topsoil and vegetative materials in preparation for development, but not including mowing and cutting of brush for maintenance, the removal of dead or diseased plants or the removal of a single tree on a developed parcel.

Clear Trunk – Palm, is a measurement from the soil line to a point on the trunk where the trunk caliper begins to taper abruptly, as per "Grades and Standards for Nursery Plants" published by the State Department of Agriculture and Consumer Services, Part 2.

~~**CLUBHOUSE, PRIVATE.** A central facility that serves as an integral part of a residential development, providing a meeting place and/or indoor recreation opportunities for residents of a residential subdivision or other residential or mixed-use development, within which the facility is located.~~

~~**CLUBS** and **FRATERNAL ORGANIZATIONS. CLUBS, COMMERCIAL.** Clubs which are owned by individuals and operated for a profit such as tennis and racquetball clubs, golf clubs, etc.~~

~~**CLUB, COUNTRY.** A large area and buildings containing recreational facilities, clubhouse and usual accessory uses, open only to members and their guests for a membership fee. Occasionally such facilities may be leased to outsiders for banquets, weddings, or other social engagements.~~

~~**CLUB, FRATERNAL.** Group of people associated or formally organized for a common purpose, interest, or pleasure. Such organizations are generally fraternal in nature and include fraternities, sororities, or lodges.~~

~~**CLUBS, MEMBERSHIP ORGANIZATION.** An organization operating on a membership basis with preestablished formal membership requirements and with the intent to promote the interests~~

of its members. Membership organizations include trade associations, professional organizations, unions, and similar political and religious organizations.

Coastal Construction Control Line, is the line established by the State of Florida pursuant to F.S. § 161.053, and recorded in the official records of the city, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

Coastal High Hazard Area, is a special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal High Hazard Areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1 V30, VE, or V.

Co-location, is the act of erecting antenna(s) of a wireless service provider on a tower or an existing antenna support structure already supporting an antenna.

COLONNADE. A series of columns that are set at regular intervals and that support the base of an overhead structure.

(Ord. 91-05, 11-14-2005)

Commercial and Professional, shall include property zoned C, CC, INST, P-1, NC, MX, MXB, MX SI, and SC.

~~COMMERCIAL FISHERY.~~ Land or structures, used as a commercial establishment for the receiving, processing, packaging, storage and wholesale or retail distribution and sale of food products of the sea. Such land or structures, may include facilities for the docking, loading, unloading, fueling, icing and provisioning of vessels and for the drying and maintenance and storage of nets, traps and buoys.

Commercial Lettering, is letters, numbers, symbols, or combinations thereof which advertise a trade, business, industry, or other activity for profit or a product, commodity, or service. The term shall not include bumper stickers affixed to bumpers only or the decal or plate commonly applied to a motor vehicle by a motor vehicle dealer.

Commercial Rack, is any frame, device, or other apparatus that is designed and constructed for the primary purpose of carrying tools, building materials, or merchandise. Racks designed and constructed for carrying luggage or sporting equipment, such as kayaks, canoes, or bicycles, shall not be considered to be Commercial Racks so long as they are used for the purpose of carrying the aforesaid items. Furthermore, a rack designed and constructed for carrying a ladder (a "ladder rack") that is attached to a motor vehicle shall not be considered to be a Commercial Rack, provided the ladder rack is not wider than the vehicle to which it is attached and no part of such ladder rack extends more than 16 inches above the cab of the vehicle or extends beyond the tailgate of the vehicle.

Commercial Recreation, Indoor, is an indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support facilities.

Commercial Recreation, Outdoor, means a recreational land use conducted outside of a building, including athletic fields; skateboard park; swimming, tennis, handball, basketball courts; batting cages.

Commercial Vehicle, is an agricultural, construction, or industrial motor vehicle or any bus, step van, truck, or truck tractor. The term shall include any motor vehicle (including automobiles) upon which commercial lettering, as defined herein, has been affixed. The term shall also include a pickup truck from which the cargo box has been removed. Any motor vehicle with one or more tools (including a ladder), building materials, or merchandise visible from the street or abutting residential property, or a "commercial rack" that is visible from the street or abutting residential property shall be deemed a commercial vehicle. A passenger automobile or sports utility vehicle (SUV) containing commercial lettering shall not be considered a commercial vehicle for purposes of this section so long as the commercial lettering on the vehicle does not contain any reference to the residential address at which the automobile is parked.

Commissary, is a public food service establishment or any other commercial establishment permitted by the Department of Agriculture and Consumer Services, which is utilized by a mobile food unit for the purpose of providing all required support services, including potable water and wastewater disposal, where food, containers or supplies are stored, prepared, or packaged, or where utensils are sanitized for transit to and sale or service at other locations that are not available on the mobile food unit.

~~**COMMISSION.** The City of Cape Coral Planning and Zoning Commission/Local Planning Agency.~~

Community Center, is a building to be used as a place of meeting or social recreation that is open to the public. Community centers may also include areas of outdoor recreation such as playgrounds or athletic courts.

Community Garden, is a private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family.

~~**COMMUNITY REDEVELOPMENT AREA (CRA).** An area, as defined by F.S. § 163.340, as same may hereafter be amended.~~

~~(Ord. 60-04, 6-14-2004)~~

~~**COMMUNITY RESIDENTIAL HOME.** A dwelling unit licensed to serve clients of the Department of Health and Rehabilitation Services, which provides a living environment for seven to 14 unrelated residents including such supervision and care by support staff as maybe necessary~~

to meet the physical, emotional and social needs of the residents. Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a non-commercial, residential use for the purpose of local laws and ordinances. Homes of six or fewer residents which otherwise meet the definition of a **COMMUNITY RESIDENTIAL HOME** shall be allowed in single-family or multi-family zoning without approval by the local government, provided that such homes shall not be located within a radius of 1,000 feet of another existing such home.

Community Residential Home, means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Families or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

COMPANY VEHICLE. Any vehicle owned or leased by the business, or any vehicle used in the daily operation of the business either on a temporary or permanent basis.

COMPATIBLE. In describing the relation between two land uses, buildings, structures, or zoning districts, the state wherein those two things exhibit either a positive relationship based on fit, similarity, or reciprocity of characteristics, or a neutral relationship based on a relative lack of conflict (actual or potential) or on a failure to communicate negative or harmful influences one to the other.

(Ord. 2-01, 2-5-2001)

COMPOUND USE. Differing uses within one building or structure, consisting of both residential uses and non-residential uses.

(Ord. 60-04, 6-14-2004)

COMPOUND USE BUILDING. A building that contains one or more residential use(s) as well as one or more non-residential use(s).

(Ord. 60-04, 6-14-2004)

COMPREHENSIVE LAND USE PLAN, CITY OF CAPE CORAL, FLORIDA. Also known as the "Plan" or "Comprehensive Land Use Plan", as adopted by the City Council on February 13, 1989, and all subsequent revisions thereto. The Comprehensive Land Use Plan elements and Future Land Use Map are complementary and equivalent components of the Comprehensive Plan.

Concurrency, is necessary public facilities and services to main the adopted level of service standards are available when the impacts of a development occur.

Conditional Use, are uses which are generally appropriate in a zoning district but have certain additional requirements to ensure the use is compatible. Conditional uses may be approved administratively as long as the required conditions are met and maintained.

~~CONJOINED RESIDENTIAL STRUCTURE.~~ A structure containing two or more dwelling units, each having a living area located on the ground floor or first finished floor, with common structural elements such as the roof, exterior walls, and foundation, where the owner of each unit owns the underlying land. A common wall must be a minimum two-hour fire wall, if required by the building code, and must be located on a lot line; and reciprocal easements, at least four feet in width, for the benefit of the unit owners for maintenance purposes, must be executed and recorded in the public records of Lee County, along with properly executed covenants approved by the City Attorney providing a mechanism for enforceable contributions by each owner toward all required and necessary maintenance, repair, and removal costs for any common wall, common well or septic system, or other shared facilities or appurtenances. Unless specifically provided otherwise in this code, all provisions hereof that apply to duplex dwellings shall apply in the same manner to conjoined residential structures having only two dwelling units, and all provisions hereof that apply to multi-family dwellings shall apply in the same manner to conjoined residential structures having more than two dwelling units.

~~(Ord. 62-99, 1-31-2000)~~

~~CONTIGUOUS.~~ Directly to the rear, or across any service alley, and within the extended side yard lot lines of a property.

~~(Ord. 71-91, 9-23-1991)~~

Continuing Care Facility, is a center which provides independent household units as well as assisted living units to allow a resident to age within one facility or community.

Construction Staging Area, is an area used on a temporary basis for the storage of materials and supplies used in the construction of a project for a limited period of time.

~~CONVENIENCE FOOD AND BEVERAGE STORE.~~ A store which specializes in convenience products and other commodities and which normally is open to the public beyond the customary sales hours of other retail stores.

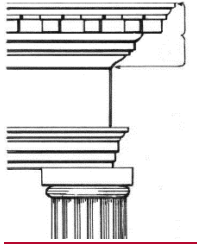
Convenience Store, is any retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood, with or without sale of fuel.

Corner Parcel, is a parcel that either touches or is on both sides of an interior corner of a lake, basin, or canal.

Corner, Waterway, is the meeting of two sides which creates an angle less than 180 degrees.

~~CORNICE.~~ A decorative horizontal feature that projects outward near the top of an exterior wall.

Cornice, means a horizontal, ornamental molding that crowns a building or element of a building such as a window or doorway.



(Ord. 91-05, 11-14-2005)

COUNTY CLERK. The clerk of the local court of record or other appropriate and duly designated public recording officer for Lee County.

COURTYARD. A roofed or unroofed space surrounded by building walls on at least two sides and providing a building entrance accessible to the general public.

(Ord. 91-05, 11-14-2005; Ord. 15-12, 9-10-2012)

Craft Brewery, Distillery, or Winery, is a use that brews beer, distills spirituous beverages, or produces wine and similar beverages on a small scale and whose annual production of beer is capped by the City of Cape Coral in contrast to a full-fledged brewery that may produce an unlimited volume of beer. These establishments may include a tasting room and retail space to sell beer produced on the premises, as well as beer, spirits and wine produced elsewhere, along with related retail items and food.

Crime Prevention Through Environmental Design (CPTED), is a multi-disciplinary approach to deterring criminal behavior through the design of the built environment. Specifically, altering the physical design of the communities in which humans reside and congregate in order to deter criminal activity is the main goal of CPTED.

Cul-de-sac, is a dead-end street terminated at the closed end by a circular vehicular turn-around.

Cultural and Civic Facilities, are facilities of historic educational or cultural interest such as botanical gardens, aquariums, libraries, art galleries, or museums.

CUPOLACupola. An ornamental structure placed above a larger roof.



(Ord. 91-05, 11-14-2005)

Cut-In Boat Slip, is a place for a boat to moor, created within a parcel through excavation or removal of soil and rock material and construction of a seawall around that area.

~~**DAY CARE CENTER, ADULT.** A facility or establishment whether operated for profit or not, which undertakes through its ownership or management to provide basic services such as, but not limited to, a protective setting, social or leisure time activities, self-care training or nutritional services to three or more adults not related by blood or marriage to the owner or operator, who require such services. This definition shall not be interpreted to include overnight care.~~

Deck, is an open and roofless platform that adjoins a house and is supported by a means other than the principal structure.

Density, is the number of dwelling units permitted per acre of land.

~~**DENTIST AND OPTOMETRIST OFFICES OR CLINICS.** A premises where patients are not lodged overnight except for observation or emergency treatment, and where patients are treated by dentists or optometrists licensed by the State of Florida.~~

~~**DEPARTMENT OF COMMUNITY DEVELOPMENT.** The department within the city government of Cape Coral, Florida, responsible for the maintenance and enforcement of these ordinances, unless otherwise specified in the text.~~

~~**DEPARTMENT STORE.** A departmentalized retail store, generally offering in one establishment, within each department, several lines and price/quality ranges of goods and services. Such an establishment may occupy a freestanding structure or occupy a space in a shopping center within which it usually functions as an attractor or anchor store.~~

Design Flood, is the flood associated with the greater of the following two areas; an area with a floodplain subject to a 1% or greater chance of flooding in any year, or an area designated as a flood hazard area on the City flood hazard map or otherwise legally designated.

Design Flood Elevation, is the elevation of the "design flood," including wave height, relative to the datum specified on the city's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to two feet.

Designed Service Study, is a study of the configuration and manner of deployment of wireless services the wireless provider has designed for an area as part of its network that demonstrates whether or not existing towers or tall structures in the search can be utilized for co-location.

DETAILING. The decoration of a motor vehicle, usually in conjunction with car washing, waxing and polishing, whereby minor dents and holes may be straightened and filled and minor striping and designs may be painted upon the automobile's surface. Such work shall not be construed as auto body repair or painting.

Developer, is the person who is improving a parcel of land and who may or may not be the owner of that property.

DEVELOPMENT. Building or structure(s) and use(s) that are part of an integral application for development.

(Ord. 101-03, 10-20-2003)

Development, is any human-caused change to improved or unimproved real estate that requires a permit or approval from any agency of the city or county, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of materials.

Development Approval, is any written authorization from the city which authorizes the commencement of a development.

DEVELOPMENT OF REGIONAL IMPACT (DRI). Any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county, as defined by F.S. § 380.06.

DEVELOPMENT PERMIT. Any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

Diameter at Breast Height (DBH), is the diameter of the tree when measured four and one-half feet above the ground.

DIRECTLY AFFECTED PROPERTY. Property within 500 feet in any direction from the property line of land owned or controlled by petitioner is property directly affected by action of the City Council or the Planning and Zoning Commission/Local Planning Agency.

(Ord. 1-08, § 7, 3-10-2008)

DIRECTOR. The Director of the Department of Community Development of Cape Coral, Florida, or its successor agency.

DISCHARGE. Includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, depositing or dumping.

Distribution Line, are the electric lines that deliver medium voltage electricity from the substation to an overhead or underground transformer that ultimately serves the consumer.

Divider Median, is a landscaped strip between abutting rows of parking spaces.

Dock, is any structure, otherwise known as a pier, wharf, or loading platform, extending into the water from a seawall or bank and which may provide berthing for marine vessels

~~**DORMITORY, FRATERNITY HOUSE** or **SORORITY HOUSE**. A building in which sleeping rooms are provided for occupancy by, and maintained as a place of residence exclusively for, students affiliated with an academic or professional college or university, with or without meals, and when approved and regulated by such institution. A **DORMITORY, FRATERNITY HOUSE** or **SORORITY HOUSE** shall include living quarters and may contain independent cooking facilities designed for the resident manager only. (See also § 3.3.5.)~~

Dormitory, is a building intended or used principally for sleeping accommodations where such building is related to an educational or public institution, including religious institutions.

~~**DOWNTOWN COMMUNITY REDEVELOPMENT AREA**. The area in the City of Cape Coral established by the Cape Coral City Council as a community redevelopment area in Ordinance 49-87, as expanded by Ordinance 11-03 and Resolutions 06-03, 60-03, and 22-09.~~

~~(Ord. 60-04, 6-14-2004; Ord. 15-12, 9-10-2012)~~

~~**DOWNTOWN COMMUNITY REDEVELOPMENT PLAN**. The Community Redevelopment Plan adopted by City of Cape Coral Ordinance 11-03, including any future amendments or modifications adopted by City Council.~~

~~(Ord. 91-05, 11-14-2005)~~

~~**DRIVE-THRU FACILITY**. An establishment where a patron is provided products or services without departing from his or her automotive vehicle. **DRIVE-THRU**, **DRIVE-IN**, and **DRIVE-UP** are synonymous.~~

~~**DRIVE-IN THEATER**. A place of outdoor assembly used for the showing of plays, operas, motion pictures, and similar forms of entertainment which is designed to permit the audiences to view the performance from vehicles parked on the theater property.~~

~~**DRUGSTORE**. An establishment wherein the principal use is the dispensing of prescription and patent medicines and drugs and related products, but where nonmedical products such as greeting cards, magazines, cosmetics, photographic supplies, may also be sold. The term **DRUGSTORE** includes **PHARMACY**.~~

Dumpster, are the covered containers that are designed and intended to be mechanically dumped into a packer-type sanitation vehicle, regardless of whether such containers are used for the collection or disposal of solid waste or other refuse or for the collection or disposal of recycling materials, as well as

covered containers that are designed and intended to be used for compaction of materials such as cardboard boxes.

Dumpster Enclosure, is the fence or wall that encloses and screens a dumpster.

~~**DUPLEX.** See **DWELLING UNIT, TYPES.**~~

(Ord. 91-05, 11-14-2005)

DWELLING UNIT. A room or rooms connected together, which could constitute a separate, independent housekeeping establishment for a family, for owner occupancy, or for rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure. **DWELLING UNITS** must contain at a minimum one sleeping room, one bathroom, and one kitchen, but shall not contain more than one kitchen, or other indoor portion of the structure with a functioning range or oven. The term **DWELLING UNIT** shall not include rooms in hotels, motels or institutional facilities.

(Ord. 61-13, 12-9-2013)

~~**DWELLING UNIT, TYPES.**~~

1.

~~**SINGLE-FAMILY RESIDENCE.** A single, freestanding, conventional building designed for one dwelling unit and which could be used for occupancy by one family only.~~

2.

~~**DUPLEX.** A single, freestanding, conventional building on a single lot designed for two dwelling units under single ownership, or wherein each dwelling unit is separately owned or leased but the site is held under common ownership.~~

3.

~~**MULTIPLE FAMILY (MULTI-FAMILY).** A group of three or more dwelling units within a single conventional building, attached side by side, or one above another, or both, and wherein each dwelling unit may be individually owned or leased but the land on which the building is located is under common or single ownership. In addition, any dwelling unit or dwelling units, regardless of number, located in a lawfully existing compound use building shall be deemed to be multiple-family dwelling unit(s).~~

(Ord. 60-04, 6-14-2004)

4.

~~**MOBILE HOME.** A building designed as a single family dwelling unit, manufactured off-site in conformance with the Federal Mobile Home Construction and Safety Standards (24 C.F.R. §§ 3280 *et seq.*), subsequently transported to a site complete or in sections where it is emplaced and tied down in accordance with F.A.C. Chapter 15C-1, with the distinct possibility of being relocated at a later date.~~

~~CONJOINED RESIDENTIAL STRUCTURE.~~ See ~~CONJOINED RESIDENTIAL STRUCTURE.~~

(Ord. 91-05, 11-14-2005)

Dwelling, Duplex, is a structure designed to accommodate two dwelling units, each of which has direct access to the outside.

Dwelling, Multifamily, is a building containing three or more individual dwellings with separate cooking and toilet facilities for each dwelling.

Dwelling, Single-Family Detached, is a dwelling unit owned in fee simple and on an individual lot which is not attached to any other dwelling unit by any means.

Dwelling, Single-Family Attached, means a single structure consisting of three or more dwelling units having one or more walls abutting with another dwelling and designed to have all exits open directly to the outside. Each dwelling unit is on a lot with individual ownership.

Easement, is a grant by a property owner to the use of land by the public, a corporation, or persons for specific purposes as the construction of utilities, drainage ways, and roadways.

~~EAVE(S)~~. The overhanging lower edge of a roof.

(Ord. 84-07, 5-12-2008)

Eave, is the projecting lower edges of a roof overhanging the wall of a building.

~~ELECTRIC TRANSMISSION CORRIDOR~~. An area where electric transmission lines are or may be installed for the transmission of electrical power.

Encroachment, is where a structure exists within a required setback, or an area that is designated to have no structures.

End Parcel, is a waterfront parcel where any part of the parcel abuts or includes within its boundaries any part of the canal end line or any part of an extension of a side line between the side line and the canal end line.

Entertainment, Indoor, means active or passive uses conducted within an enclosed building, these include but are not limited to: motion picture theaters, concert or music halls, billiards, arcades, and bowling.

Entertainment, Outdoor, means active or passive uses conducted in open or partially enclosed or screened entertainment complex. Typical uses include but are not limited to: sports arenas, motor vehicle or animal racing facilities, and outdoor amusement parks.

ENTRANCE. A means of ingress to and egress from a building.

(Ord. 84-07, 5-12-2008)

ENTRANCE GATE. A mechanized control device which is located near the point of access to a development which serves to regulate the ingress of vehicles and pedestrians for the purpose of security and privacy.

ESSENTIAL SERVICES. The erection, construction, alteration or maintenance (by a public or private utility company for the purpose of furnishing adequate service by said company for the public health, safety or general welfare) of electrical and communication cables, poles and wires, and water and sewer collection, transmission or distribution mains, drains and pipes, including fire hydrants. This definition shall not be interpreted to include buildings, structures or uses listed as essential service facilities.

Erosion, is the removal of soil through water or wind action.

Essential Services, is the erection, construction, alteration or maintenance (by a public or private utility company for the purpose of furnishing adequate services for the public health, safety, or general welfare) of electrical and communication cables, poles and wires, water and sewer collection, transmission, or distribution mains, drains and pipes, including fire hydrants. This definition shall not be interpreted to include buildings, structures, or uses listed as essential service facilities.

Essential Service Facilities, are buildings or above ground structures (exceeding 27 cubic feet in volume) required to provide essential services including electricity; telephone, cable TV, gas, water, sewage, solid waste, and resource recovery.

Excavating or Filling, is the removal or placement of more than 100 cubic yards of earth or the alteration of the elevation of more than 1,250 square feet of land area more than two feet.

Excavation, is an operation utilizing any tools, equipment or explosives for the purpose of moving, removing or otherwise displacing or distributing earth, rock or other materials in or on the ground or wrecking, razing, rending, moving or removing any structure or mass of material.

Existing Building and Existing Structure, are any buildings and structures for which the "start of construction" commenced before August 17, 1981.

Existing Manufactured Home Park or Subdivision, is a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 17, 1981.

Expansion to an Existing Manufactured Home Park or Subdivision, is the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Exotic, means a species introduced to Florida, purposefully or accidentally, from a natural range outside of Florida.

Extraction, is the removal of physical matter in a solid, liquid, or gaseous state from its naturally location such as dirt, soil, sand, rock, oil, gas, and marl. Extraction shall not include typical digging, clearing, and filling operations associated with an approved Site Development Plan for residential and non-residential development.

~~**EXPRESSION LINE.** A decorative horizontal projection or recess on an exterior wall to delineate the top of the first story of a multi-story building.~~

~~(Ord. 91-05, 11-14-2005; Ord. 15-12, 9-10-2012)~~

FAA, means the Federal Aviation Administration.

~~**FACADE.** The exterior walls of a building that face a right-of-way, (other than an alley) or which face a plaza, a public park, or a courtyard, which is open to a public sidewalk. For purposes of this definition, a plaza, public park, or courtyard that is separated from a public sidewalk by only a fence wall or landscaping less than six feet in height shall be deemed to abut a public sidewalk regardless of whether such plaza, public park, or courtyard is accessible from such sidewalk.~~

~~(Ord. 91-05, 11-14-2005)~~

Façade, is the exterior elevation of a structure or building as viewed from a single vantage point.

~~**FAMILY.** One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit provided that a group of five or more adults who are not related by blood, marriage, or adoption shall not be deemed to constitute a family. The term **FAMILY** shall not be construed to mean a club, convent, fraternity, institutional group, or sorority.~~

Family, is any number of persons living together as a single housekeeping unit.

~~**FAMILY DAY CARE HOME.** An occupied residence in which child care is regularly provided as defined by F.S. § 402.302(7), as same may hereafter be amended.~~

~~(Ord. 98-03, 10-14-2003) _____~~

Family Day Care Home, is an occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. Household children under 13 years of age, when on the premises of the family day care home or on a field trip with children enrolled in child care, shall be included in the overall capacity of the licensed home.

Farmer's Market, is an occasional or periodic outdoor market where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages.

FCC, means the Federal Communications Commission

Feather Flag, is a vertical flag used for identifying a secondary model home contiguous to the primary model home site.

Federal Emergency Management Agency (FEMA), is the federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

FENCE. A structure used for enclosing land areas constructed of pickets, boards, rails, chain link, or concrete products which are generally supported by posts and provide privacy, land separation, containment of domestic animals, and restriction of passage. ~~(See also § 3.9.)~~

Fence, Decorative, means an open mesh fence no higher than two feet, other than chain link or barbed wire, intended to decorate, accent, or frame a feature of the landscape. Ornamental fences are often used to identify a lot corner or lot line, or frame a driveway, walkway, or planting bed.

Fender Post, is a post inserted into the canal bottom and fastened to the dock or seawall to prevent damage to the vessel when tied alongside the dock or seawall.

~~**FISHERIES.** A premises, or portion of a premises, occupied by an establishment primarily engaged in commercial fishing; the operation of oyster farms and the tonging and dredging of oysters; the gathering of sponges, seaweed, etc., and the operation of fish hatcheries or fishing preserves.~~

Flea Market, is the sale of used merchandise customarily involving tables or space lease or rented to vendors.

~~**FLEA MARKET, OPEN.** A market held in an open or sheltered area (not within a building) where a group of individual sellers offer food and goods for sale to the public.~~

~~**FLEA MARKET, INDOOR.** A market held within a building where a group of individual sellers offer food and goods for sale to the public. A major distinction between an **INDOOR FLEA MARKET** and a multiple-occupancy complex is that most leases between the sellers and the operators of the flea market are short term.~~

Flex Space, is commercial space, typically office, workshop, and loading bay area that allows businesses to utilize the space in the manner necessary for their work, most typically light industrial uses.

Flood or Flooding, is a general and temporary condition of partial or complete inundation of normally dry land from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Damage Resistant Materials, is any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

Floodplain, is the land area susceptible to inundation by water as a result of a flood.

Floodway Encroachment, is any fill, structure, building, accessory use, use, or development in the floodway.

Flood Hazard Area, is the greater of the following two areas; the area within a floodplain subject to a 1% or greater chance of flooding in any year, or the area designated as a flood hazard area on the city's flood hazard map, or otherwise legally designated.

Floodplain Administrator, is the office or position designated and charged with the administration and enforcement of this Article (may be referred to as the Floodplain Manager).

Floodplain Development or Approval, is an official document or certificate issued by the city or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this Article.

Floodway, is the channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway Encroachment Analysis, is an engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

Floor, is the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

~~**FLOOR AREA.** The gross area of each story of a building, or portion thereof, within the surrounding exterior walls.~~

~~**FLOOR AREA RATIO.** The total floor area, including all stories, of a building(s) housing commercial uses, divided by the total area of the lot that the building(s) is located on. For the purpose of calculating floor area ratio, residential-use floor areas and areas associated with parking or vehicular circulation shall not be included.~~

(Ord. 15-12, 9-10-2012)

Floor Area Ratio (FAR), is the ratio of the proposed amount of commercial or industrial floor area to the total land area shown for non-residential uses on the site.

~~**FLORIST SHOP.** Establishments primarily engaged in the retail sale of cut flowers and growing plants. Stores primarily engaged in selling seeds, bulbs, and nursery stock are classified as garden and lawn supply stores.~~

Floor Area, Gross, is the total area of a building measured by taking the outside dimensions of the building each floor level intended for occupancy and storage.

Florida Building Code, is the family of codes adopted by the Florida Building Commission.

Florida Friendly Landscaping, is a program developed through the University of Florida which encourages the use of low-maintenance plants and environmentally sustainable practices. A list of Florida Friendly plants can be found in Appendix 5.6.1.B.

Florida Native, is any plant recognized as occurring naturally in the State of Florida prior to the 1500s, as identified in **Atlas of Florida Vascular Plants by Wunderlin**, R.P., and B. F. Hansen. 2008. (<http://www.plantatlas.usf.edu/>). Institute for Systematic Botany, University of South Florida, Tampa, or other scientific documentation recognized by the city.

~~Greenhouses and nurseries primarily engaged in growing plants are listed as plant nurseries.~~

~~**FOOD AND BEVERAGE SERVICE, LIMITED.** The provision of food and beverages for members and guests of a private club or recreational center but not available to the general public.~~

~~**FOODCART.** A food stand operated out of a vehicle or some wheeled structure at a specific, permitted location and not to be left overnight.~~

Food Truck, is a temporary food service establishment that is vehicle mounted or designed to be readily movable.

Footcandle, is the unit of measure expressing the quantity of light received on a surface. One footcandle is the illuminance produced by a candle on a surface one foot square from a distance of one foot.

Frontage, is the face of a building most nearly parallel with the public right-of-way line.

Frontage Line, see "Build-to-Line".

Frontage Road, is a residential or nonresidential street parallel and adjacent to a major thoroughfare and which provides access to abutting properties with protection from through traffic.

Functionally Dependent Use, is a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary

for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long term storage or related manufacturing facilities.

~~**GARAGE.** An enclosed area designed primarily for the parking and storage of motor vehicles. A **GARAGE** is an accessory to the primary residential structure.~~

~~(Ord. 68-98, 11-30-1998) _____~~

Garage, is an enclosed area that is accessory to the primary residential structure and is designed primarily for the parking and storage of motor vehicles.

~~**GARAGE OR YARD SALE.** An informal sale of used household or personal articles (such as furniture, tools, or clothing) held on the seller's own premises, or conducted by several people on one of the seller's own premises.~~

Garage Sale, means the noncommercial sale of privately owned items from residential premises.

~~**GARDEN WALL.** A non-load bearing wall built to surround a small portion of a yard.~~

~~**GATEHOUSE.** A nonhabitable structure which is located near the point of access to a development in which an individual controls access to that development for the purpose of security and privacy.~~

~~**GAZEBO.** A freestanding, roofed structure usually open on the sides.~~

~~**GIFT, NOVELTY, AND SOUVENIR SHOPS.** Establishments primarily engaged in the retail sale of combined lines of gifts and novelty merchandise, souvenirs, and miscellaneous small art goods.~~

Glare, is lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

~~**GOLF COURSE.** Includes links; related structures such as club houses, sun shelters, and maintenance buildings; and related uses such as commercial pro shop, restaurant, incidental recreational and housing facilities, and maintenance.~~

~~**GOLF DRIVING RANGE.** A public or private establishment providing facilities for practice driving of golf balls. Such facilities specifically exclude golf courses or links, but may provide ancillary uses such as refreshment stands, putting greens, pro shops, and maintenance sheds.~~

~~**GOVERNING BODY.** The City Council for the City of Cape Coral, Florida.~~

~~**GOVERNMENT USES.** Any land, building, structure, use or activity, regardless of actual ownership, operated by the city; county, state or federal government or legally empowered special governmental district that is necessary to the conduct of government, the furnishing of public~~

services or of an institutional character and over which such governments exercise direct and complete control.

Grade, is the average level of the finished surface of the ground adjacent to the exterior walls of the building.

~~**GREEN AREA.** A landscaped area that must be provided other than that provided in streets, roads, and parking areas, and that further satisfies the requirements of "landscaped" as defined in [§ 5.2](#), Landscaping.~~

Greenhouse, is a building or structure constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other plants.

Green Roof, is a building roof that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. It may also include additional layers such as a root barrier and drainage and irrigation systems.

~~**GROCERY.** A retail market for general food items, often, but not necessarily, self-service, smaller than a supermarket and with a far smaller range of non-food items.
(See **SUPERMARKET**, **CONVENIENCE FOOD AND BEVERAGE STORE**.)~~

~~**GROSS RESIDENTIAL DENSITY.** The total number of dwelling units divided by the total acreage of a subject site.~~

Groundcover, is any low growing plant, 24 inches in height or less, that can be used to cover areas where sod or turf is not desired or will not grow.

Group Home, is a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

~~**GROUP QUARTERS.** A building in which a number of unrelated individuals that do not constitute a "family" live and share various spaces and facilities, for example, cooking, eating, sanitation, relaxation, study and recreation. Examples of **GROUP QUARTERS** include fraternity houses, boarding houses, adult congregate living facilities, dormitories, sororities, rooming house, and other similar uses.~~

~~**GUEST/STAFF QUARTERS.** A dwelling unit that is located on the same premises as the principal building and is to be used exclusively for housing members of or guests of the family occupying the principal building and/or members of the domestic staff employed on the premises. Such unit may be in either the principal building or in an accessory building. If located in an~~

accessory building, such quarters may contain kitchen facilities; however, in no event shall the principal building contain more than one kitchen facility. No such quarters shall be rented, leased, or otherwise made available for compensation of any kind. Although a single premises may contain such quarters both in the principal building and in a separate accessory structure, no more than one accessory building containing guest/staff quarters shall be located on a premises.

(Ord. 114-00, 12-4-2000)

Habitat, means the physical location or type of environment in which an organism or biological population lives or occurs.

Hardscape, are tangible objects and features other than plant materials, including, but not limited to, steps and ramps, fountains and pools, fences, screens, dividers and walls, overhead structures (i.e. trellis), decks, retaining walls, play equipment, benches and planters, drainage structures, lighting, pavement, curbs, and site furnishings.

HARDWARE STORE. Establishments primarily engaged in the retail sale of a number of basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and small household appliances and cutlery.

HAZARDOUS. Those structures, uses, materials or premises that constitute fire, explosion or safety hazard and/or emit any atmospheric or environmental pollutant, light flashes, noxious gases, electromagnetic interference, radioactive emissions, smoke or heat, glare, dust, direct odor, noise or vibrations which may be heard or felt off the premises.

NON-HAZARDOUS. Those structures, uses, materials or premises that do not constitute a fire, explosion or safety hazard and/or do not emit any atmospheric or environmental pollutant, light flashes, noxious gases, electromagnetic interference, radioactive emissions, smoke or heat, glare, dust, dirt, odor noise or vibrations which may be heard or felt off the premises.

Hearing Examiner, is a person appointed to conduct public hearings and take action in action proceedings as specified by this code.

HEATING AND COOKING FUEL ESTABLISHMENTS. A premises, or portion of a premises, occupied by an establishment engaged primarily in the retail selling of wood, heating fuel oil, or bottled gas directly to ultimate consumers and not for resale.

Hedge, is any group of shrubs planted in line or in groups that form a compact, dense, living barrier that protects, shields, separates, or demarcates an area from view; any similar plant material, or similar plant material in conjunction with a structure.

Height, is the vertical distance measured from the lowest finished floor elevation to the lowest point of the highest horizontal eave or to the highest point of the highest parapet wall, whichever is higher.

HELIPORT. An area, either at ground level or elevated on a structure, licensed or approved for the loading and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

HELISTOP. A heliport, but without ancillary facilities such as parking, waiting room, fueling and maintenance equipment.

Heritage Tree, is a Florida native canopy tree with a 20-inch caliper DBH or larger.

Highest Adjacent Grade, is the highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic Structure, is any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings.

~~**HOME OCCUPATIONS.** Will be as provided in [§ 3.19](#).~~

Home Occupation, is an occupation for monetary gain or support conducted by members of a family residing on residential premises, and conducted entirely within the dwelling, provided that no article is sold or offered for sale except such as may be produced or acquired by members of the immediate family residing on the premises. Home occupations shall not be construed to include barbershops, beauty shops, tearooms, restaurants, dress shops, commercial kennels, real estate offices, dance studios, astrologists/palmists and the like, band instrument instructors, photographic studios, and child care facility for more than five children.

~~**HORTICULTURAL SPECIALTY FARMS.** A premises, or portion of a premises, occupied by an establishment primarily having as the principal purpose of business the production for sale of greenhouse, frame, cloth house, lath house, or outdoor-grown horticultural products such as bulbs, florists' greens, herbs, mushrooms, flower seeds, sod crops, and trees. **HORTICULTURAL SPECIALTY FARMS** may include landscaping service establishments.~~

HOSPICE. A facility designed to provide comfort and relief for the emotional and physical needs of the terminally ill.

Hospital, is an institution, licensed by the state department of health, providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

~~**HOTEL/MOTEL.** Any building, or part thereof, in which sleeping or living accommodations are offered on a short-term or transient basis, without regard to the form of ownership of the property or of the units therein. However, in the event that either the property or any units therein are owned by more than one person or entity, then the management of the entire facility must be performed by a single on-site management company or entity. The term **HOTEL/MOTEL** shall include, but not be limited to, any building, or part thereof, in which the right of use or occupancy~~

of any unit circulates among various occupants for specific periods of time less than a full year during any given year, but not necessarily for consecutive years.

(Ord. 68-98, 11-30-1998) _____

Hotel, is an establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone and desk service. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities.

Hot Dog Cart, is a non-motorized food unit which serves hot dogs, sausages, or other similar type foods or beverage, or both, limited for immediate consumption and provides no seating. Hot Dog carts shall be located within 10 feet of the primary structure of an existing business and shall be closed or removed from the sales location at the end of business hours of the primary business on site. Hot dog carts shall not be located in areas which interfere with traffic.

Household, is the person or persons occupying a dwelling unit.

Impervious Surface, is any material that substantially reduces or prevents the infiltration of stormwater into the ground. This shall include all buildings, pavement, pools and pool decks, sidewalks, and areas covered with gravel, stones, paver blocks, shell, and rocks.

~~INDOOR~~. Refers to that which is within a building.

~~INSTRUCTIONAL STUDIO~~. An establishment, generally ancillary but related to the primary use, where instructions are given in the fine arts (music, ceramics, pottery, painting, sculpture, etc.), crafts, weaving, needlepoint, knitting, etc.), or professions (photography, singing, dancing, acting, etc.). Such a studio must be able to accommodate more than one student and one teacher at any time.

Industry, Heavy, is manufacturing or other enterprises with significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process.

Industry, Light, includes research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building. Finished or semi-finished products may be temporarily stored outdoors pending shipment.

Infrastructure, means facilities and services needed to sustain industry, residential, commercial, and all other land-use activities, including water, sewer lines, and other utilities, streets and roads, communications, and public facilities such as fire stations, parks, schools, etc.

Institutional Uses, are public or quasi-public uses in a non-for-profit nature typically engaged in public service.

Intensity, is the number of square feet of development per acre, or floor area ratio, by land use type with respect to non-residential land uses.

Invasive Species, means a species that is non-native to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

~~**JUNK YARD.** Any use on private property involving the parking, storage or disassembly of junked vehicles, or wrecked or nonoperable vehicles, storage, baling or otherwise dealing in wastepaper, rags, scrap metal, used building materials, old household appliances and other similar matter.~~

~~Such uses shall be considered junk yards whether or not all or part of such operations are conducted within a building or in conjunction with, in addition to, or accessory to, other uses of the premises. This definition shall not include pawn shops and establishments for the sale, purchase or storage of usable second hand cars, used furniture or similar household goods and appliances. (See also § 3.3.7.)~~

KITCHEN. An indoor portion of a structure specifically designed and equipped for the preparation, service and storage of food. The kitchen shall be provided with, at a minimum, a functioning sink, range, oven, and refrigerator.

(Ord. 61-13, 12-9-2013) _____

Laboratory, Research, is a building or group of buildings in which facilities for scientific research, investigation, testing, or experimentation are. This does not include facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

~~**LAND AREA.** The total land area within the property lines.~~

Land Development Code, means the city's zoning, subdivision, building, and other regulations controlling the development of land.

~~**LANDSCAPING.** The process of modifying or ornamenting a natural landscape by altering the plant cover. (See [§ 5.2.](#))~~

Landscaping, is the finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment may also include the use of logs, rocks, fountains, water features, and contouring of the earth.

Landscape Plan, is a plan associated with a subdivision master concept plan, or site development plan, indicating the placement of landscape materials, including specifications, species, quantities, and method of installation.

Landscaped Area, is an area set aside from structures and parking which is developed with natural materials (i.e. grass, trees, shrubs, vines, hedges, bedding plants, rock) and decorative features, including paving materials, walls, fences, and outdoor furniture.

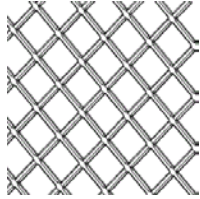
LANDSCAPING SERVICE ESTABLISHMENTS. A premises, or portion of a premises, occupied by an establishment in which a person, or persons, practice a vocation that performs a type of labor, act or work off the premises that primarily results in horticultural and lawn maintenance services such as cemetery and golf course upkeep, landscape gardening, tree planting and similar operations on a given premises normally on a contract basis or for a fee or charge. **LANDSCAPING SERVICE ESTABLISHMENTS** do not include horticultural specialty farms or plant nurseries.

LAND USE INTENSITY. The existing or potential use of the land's surface for various activities. **LAND USE INTENSITY** is determined by the spatial requirements of an activity, the relationship of structural mass to open space, the requirements for infrastructure (transportation, water, sewer, electricity, and communications), and the activities environmental impacts.

LARGE FAMILY CHILD CARE HOME. An occupied residence that is used for child care as defined by F.S. § 402.302(8), as same may hereafter be amended.

(Ord. 98-03, 10-14-2003)

Lattice, is an ornamental criss-crossed framework, an arrangement of crossing laths or other thin strips of material which allows light and air to pass between the openings.



LAUNDRY AND DRY CLEANING PLANTS. A building, or portion of a building, occupied by an establishment primarily engaged in the commercial operation of mechanical laundries with steam or other power normally for a fee or charge and including rug cleaning, dry cleaning or dyeing apparel and household fabrics or establishments supplying laundered linens, work clothing, diapers, baby linens, or uniforms on a contract basis when such establishments operate their own laundry facilities on the same premises. The establishment normally involves a substantial amount of equipment and serves a relatively large trade area through direct or indirect pick up and delivery of laundry and dry cleaning articles by personnel employed by the establishment.

LAWN AND GARDEN SUPPLY STORES. Establishments primarily engaged in selling trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, and other garden supplies to the general public. These establishments primarily sell products, purchased from others, but may sell trees, shrubs or other plants which they grow themselves. Establishments primarily engaged in growing are classified as plant nurseries.

Letter of Map Change, (LOMC) is an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): is an amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR): is a revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

Letter of Map Revision Based on Fill (LOMR-F): is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the City floodplain management regulations.

Letter of Map Revision, Conditional (CLOMR): is a formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light Pollution, means any adverse effect of artificial light including, but not limited to, glare, light trespass, skyglow, energy waste, and impacts on the nocturnal environment.

Light Van, is any motor vehicle having a generally rectangular bulk, which is licensed and registered for operation upon public highways and which has a carrying capacity of no more than one ton or no more than nine passengers.

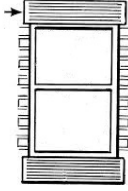
Lighting, Fully Shielded/Cutoff, means any outdoor light fixture shielded in such a manner that all light emitted by the fixture is projected below the horizontal as determined by a photometric test or certified by the manufacturer.

~~**LINER BUILDING.** A building or portion of a building constructed in front of a parking garage, cinema, supermarket etc., to conceal large expanses of blank wall area and to face the street space with a facade that has doors and windows opening onto the sidewalk.~~

~~(Ord. 91-05, 11-14-2005)~~

Liner Building, is a building or portion of a building constructed in front of a parking garage.

Lintel, means a horizontal support of timber, stone, concrete, or steel across the top of a door or window.



LIQUOR STORE. See **PACKAGE STORE.**

Loading Space, is an off-street space, having a minimum width of 10 feet, length of 30 feet, and height clearance of 14 feet, on the same lot with a building or group of buildings for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

LOCAL PLANNING AGENCY. The City of Cape Coral Planning and Zoning Commission when reviewing matters related to the Comprehensive Land Use Plan as specified in F.S. Chapter 160.

Local Planning Agency, is the City of Cape Coral Planning and Zoning Commission when reviewing matters related to the Comprehensive Land Use Plan as specified in F.S. Chapter 160.

LODGING HOUSE. A building in which up to four sleeping rooms are provided for occupancy by nontransient persons with or without meals for compensation on a prearranged weekly or monthly basis. A **LODGING HOUSE** shall include living quarters and may contain independent cooking facilities designed for the resident manager only. (See [§ 3.4.](#))

LOT. A parcel of land under one ownership occupied by or to be occupied by one principal building and its accessory buildings and including the open spaces and yards required under this ordinance.

LOT LINE. A boundary dividing a lot from a right-of-way, adjoining lot or other adjoining tract of land.

FRONT LOT LINE. The lot line abutting a street right-of-way line.

REAR LOT LINE. The lot line opposite the front lot line.

SIDE LOT LINE. Lot lines other than the front or rear lot lines.

CORNER LOT. A lot which abuts on two or more intersecting streets at their intersection, but is not to include wing streets at cul-de-sac locations; wing streets at locations where road angles or turns and the wing street is less than 120 feet in length. (See §§ 3.7.1 and 3.8.2.)

DOUBLE FRONTAGE LOT. Any lot other than a corner lot which abuts on two streets. (See [§ 3.8\(a\).](#))

LOT FRONTAGE. The horizontal linear dimension of a lot line that is common with a street right-of-way line. Lot frontage shall be measured in a single plane as projected toward the street.

(Ord. 15-12, 9-10-2012)

LOT OF RECORD. A lot which is duly recorded in the office of the clerk of the local court of record.

Lot or Lot of Record, is a lot or tract that is part of a recorded subdivision that has been recorded with the county clerk of courts office containing property tax records.

LOT AREA. The total amount of land within the lot lines.

Lot Coverage, refer to Section 1-112 of the Land Development Code.

Lot, Corner, is a lot which abuts on two or more intersecting streets at their intersection, but is not to include wing streets at cul-de-sac locations; wing streets at locations where road angles or turns and the wing street is less than 120 feet in length.

Lot, Double Frontage, is a lot having frontage on two nonintersecting streets, as distinguished from a corner lot.

Lot, Flag, is a lot not meeting minimum lot frontage requirements at the street and where access to a right-of-way is provided by means of a long, narrow driveway between abutting lots.

Lot Lines, are the property lines bounding the lot.

Low Impact Development (LID), are systems and practices that use or mimic natural processes that result in the infiltration, evapotranspiration, or use of stormwater in order to protect water quality and associated aquatic habitat.

Lowest Floor, is the lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24.

Lumen, is the unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire. One footcandle is equal to one lumen per square foot.

MAIN PARCEL(S). Within a development containing multiple parcels, primary or principal parcel(s), usually housing principal end users, such as the major store or stores within a shopping center. A main parcel is typically significantly large in size than outparcels and may provide access to outparcels. If a development has more than one main parcel, they are typically more similar, though not necessarily identical, in size to each other than to outparcels.

(Ord. 84-07, 5-12-2008)

Maintain, means in a condition or state of equivalent quality to that which was approved or required by the city.

Manufactured Home, is a structure, transportable in one or more sections, which is eight feet or more in width and greater than 400 square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term Manufactured Home does not include a "recreational vehicle" or "park trailer." The term Manufactured Home shall also include the term "mobile home" as provided in Article 11. Definitions.

Manufactured Home Park or Subdivision, is a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

~~**MANUFACTURING.** Establishments which are primarily engaged in the mechanical or chemical transformation of materials or substances into new products, as well as establishments primarily engaged in assembling component parts of manufactured products if the new product is not a permanent structure or other fixed improvement.~~

Manufacturing, Heavy, is the manufacturing of products from raw or unprocessed materials, where the finished product may be combustible or explosive. This category shall also include any establishment or facility using large unscreened outdoor structures such as conveyor belt systems, cooling towers, cranes, storage silos, or similar equipment, that cannot be integrated into the building design, or engaging in largescale outdoor storage. Any industrial use that generates noise, odor, vibration, illumination, or particulate that may be offensive or obnoxious adjacent land uses, or requires a significant amount of on-site hazardous chemical storage shall be classified under this land use. This use shall include any packaging of the product being manufactured on-site.

Manufacturing, Light, is the indoor processing or fabrication of certain materials or products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties.

Market Value, is the price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this Article, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, actual cash value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the property appraiser.

~~**MARINA.** A boating facility, chiefly for recreational boating, located on navigable water frontage, and providing all or any combination of the following: boat slips or dockage, dry boat storage, marine fuel and lubricants, marine supplies, restaurants or refreshment facilities, boat and boat motor sales, and rentals. Minor boat rigging and motor repair which is incidental to the principal marina use is generally allowed as an accessory use. However no dredge, barge or other work dockage or service is permitted, and no boat construction or reconstruction is permitted.~~

(See **BOAT YARD**). The word **MARINE** shall also apply to navigable fresh waters. This shall not be construed to apply to docks, davits, and similar facilities appurtenant to a residential land use providing only dockage or mooring.

Marina, is a waterfront establishment whose business is offering the rental or lease of slips for boats, the sale or rental of boats and marine sporting equipment, and the servicing, repair, or storage of similar items. Such establishments may also provide gasoline, sanitary pump-out service, and food and drink.

Marine Improvement, means a whole, constructed marine structure including, but not limited to, dock, boat lift, mooring posts, walkways, and other interconnecting parts. A boat canopy, its supports, and its frame shall not be considered to be a part of the marine improvement to which they are attached.

Marine Improvement Area, is that area enclosed by the water frontage line, the offset line, and lines connecting the ends of the offset line to corresponding offset points. This establishes the construction envelope for marine improvements See Diagram 5.5.4.E.

Master Concept Plan, is a general graphic depiction of the layout and/or design of a land development project, which shall include written and quantitative information as required by the city, including a phasing plan, but to be distinguished from a "site development plan," as defined herein.

MASSAGE PARLORS. A shop, establishment or place of business wherein is administered treatments with mechanical or electrical apparatus for the purpose of body slenderizing, body reducing or body contouring, or all or any one or more of the following subjects and methods of treatment, viz.: oil rubs, salt glows, hot or cold packs, all kinds of baths including steam rooms, cabinet baths, sitz baths; irrigations, body massage either by hand or by any mechanical or electrical apparatus or device excluding fever therapy, the application of such movements as stroking, friction, rolling, vibration, kneading, cupping, petrissage, rubbing, effleurage, tapotement. **MASSAGE PARLORS** shall be licensed by the state's Department of Professional Regulations.

MASSING. The apparent bulk or structural volume of a building as measured by its height, width, and depth.

(Ord. 84-07, 5-12-2008)

Mean Water Level, in regard to fresh water waterways, is the elevation established at the downstream weir, and, in regard to saltwater waterways, the mean high water of +013 feet National Geodetic Vertical Datum of 1929 (NGVD-29).

MEDICAL OFFICES AND MEDICAL CLINICS. A premises where patients, who are not lodged overnight except for observation or emergency treatment, are treated by one person or group of persons practicing any form of healing or health building services to individuals, whether such persons are medical doctors, chiropractors, osteopaths, chiropodists, podiatrists, naturopaths, dentists, counselors of all sorts, psychiatrists, clinical psychologists, nurse practitioners, ophthalmologists, or any such profession, the practice of which is regulated by the State of Florida,

Department of Professional Regulation. Ancillary uses such as pharmacies, eye wear centers, and the like may also be located on the premises.

Medical Marijuana Dispensary, is a facility where marijuana is made available for sale for medical purposes. This also includes establishments from which marijuana is delivered to patients who cannot obtain it from a dispensary, due to physical or mental disability, for medical purposes.

~~**MINI-WAREHOUSE.** Any building designed or used to provide separate storage rooms to individuals or businesses for a fee or rental, said rooms being intended solely as dead storage depositories for personal property, inventory, and equipment, and not for any other commercial or industrial use. (See **WAREHOUSE, PUBLIC** and **STORAGE, DEAD**.)~~

Mixed-Use Development, is a project which integrates residential and non-residential uses.

Mixed-Use Building, is a building containing residential and non-residential uses permitted in the zoning district.

Mixed-Use Zoning Districts, includes the following zoning districts: Commercial Corridor (CC), Neighborhood Commercial (NC), Mixed Use (MX), Mixed Use Seven Islands (MX7), Mixed Use Bimini (MXB), South Cape (SC), and Planned Unit Developments (PUD).

~~**MODEL HOME SITE.** A residential structure used only for demonstration, display or sales of the approved model, not occupied as a dwelling unit, and open to the public for inspection.~~

~~(Ord. 68-98, 11-30-1998)~~

Mobile Food Unit, is any food service unit serving food or beverage, or both, intended for immediate consumption, which is self-propelled or otherwise moveable from place to place and contains utilities, such as gas, water, electricity, and liquid waste disposal, whose commissary is a Department of health (DOH) regulated food service establishment. An open bed truck, van, or converted automobile is not considered a mobile food unit and is not eligible for a mobile food vending permit pursuant to this chapter.

Mobile Food Vender, is any person or business selling foods or beverage, or both, other than fresh fruits or vegetables not intended for immediate consumption, from a mobile food unit, including a self-sufficient mobile food unit or hot dog cart.

~~**MOBILE HOME.** A detached living unit will have all of the following characteristics:~~

~~Normally is identified by the manufacturer as a mobile home and/or displays a motor vehicle license plate identifying it as a mobile home;~~

~~Designed to be transported after fabrication on its own wheels, or on flatbeds or other trailers, or detachable wheels;~~

Designed primarily for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems;

Normally arrives at the site where it is to be occupied as a complete unit, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like;

Any vehicle, trailer or similar portable structure, with or without its own motive power, having no integral foundation other than wheels, jacks or skirtings, and used, designed or constructed to be used as a conveyance on the public streets and designed or constructed to permit permanent occupancy for living and sleeping purposes. Removal of the means of conveyance from a mobile home or the construction of a permanent foundation for a mobile home does not change the meaning of the word mobile home as defined or used in this ordinance. The term **MOBILE HOME** does not include travel trailers; and

Insignia approved by the United States Department of Housing and Urban Development (HUD).

Model Home, is an unoccupied dwelling constructed upon a model home lot zoned for residential use and on one of four contiguous lots from the arterial or collector roadway, with each lot under the ownership of one or more builders intending to use the lots as model home sites or ancillary parking, for display purposes, price quoting and consummation of sales contracts.

Modular Structure, is a structure not built on-site but may be assembled on-site, which is placed on a permanent foundation and meets the state building code standards.

Mooring Piles, are posts, meant for tethering a watercraft to, which are anchored into the floor of a waterbody.

Monopole, is a style of free-standing tower that is composed of a single shaft, usually composed of two or more hollow sections that are in turn attached to a foundation, with external antennas. This type of tower is designed to support itself without use of guy wires or other stabilization devices.

MORTUARIES, FUNERAL HOMES and **CREMATORIES**. A building occupied by an establishment primarily engaged in preparing the dead for burial, conducting funerals and cremating the dead.

Motel, see "Hotel".

MOTION PICTURE THEATERS. A premises, or portion of a premises, occupied by an establishment primarily engaged in the commercial exhibition of motion pictures, with or without vaudeville presentations, normally open to the general public for a fee or charge. There shall be no sale of alcoholic beverages.

~~MOTOR FREIGHT TERMINAL.~~ A building or area in which trucks, including tractor or trailer units, are parked, stored, or serviced, including the transfer, loading or unloading of goods. A **~~TERMINAL~~** may include facilities for the temporary storage of loads prior to transshipment.

Mulch, is any material such as wood chips, leaves, bark, straw, or other materials left loose and applied to the soil surface to reduce evaporation.

~~MULTIPLE FAMILY (MULTI-FAMILY).~~ See **~~DWELLING UNIT, TYPES.~~**

(Ord. 91-05, 11-14-2005)

~~MULTIPLE OCCUPANCY COMPLEX.~~ A parcel of property under one ownership or singular control, or developed as a unified or coordinated project, with a building or buildings housing more than five occupants conducting separate business operations.

~~MULTI-USE.~~ Development that includes residential and non-residential uses within the same site.

(Ord. 101-03, 10-20-2003)

Mural, is any picture, scene, or diagram painted on any exterior wall or fence not interpreted by the Director to be advertising. Murals determined to be advertising shall be considered a sign and shall be included in the calculations of allowable sign area.

~~MUSIC STORE.~~ Establishment primarily engaged in the retail sale of musical instruments, phonograph records, cassette tapes, compact disks, sheet music, and similar musical supplies. The establishment may also include an instructional music studio as an ancillary use.

Native Species, is a plant or animal that originally occurred in an area.

Natural Area, is land and water that has substantially retained its natural character or land and water that, although altered in character, is important as habitats for plant, animal, or marine life, for the study of its natural, historical, scientific, or paleontological features, or for the enjoyment of its natural features.

~~NATURE PRESERVE AND WILDLIFE PRESERVE.~~ Areas set aside to permanently maintain and protect certain natural ecological systems and wildlife in their current state of existence. Nature trails, canoe trails, and interpretive displays will be allowed in preserves to promote environmental awareness and passive recreation. No other construction shall be permitted.

(Ord. 71-91, 9-23-1991)

Navigable Channel, means that portion of the waterway width in which no marine improvement may lawfully be constructed. The access width of the waterway shall be calculated by subtracting from the

calculated waterway width twice the maximum distance that a marine improvement located along one side of the waterway could lawfully project.

~~NEIGHBORHOOD STORAGE FACILITY.~~ Any building or group of buildings on a common site designed to provide, generally for a fee, separate storage rooms or units for individuals or businesses, and constructed so that overhead doors or individual storage unit doors that are not visible from adjoining property or from any public right-of-way provide the only access to the aforesaid storage rooms or units.

(Ord. 81-00, 10-23-2000; Ord. 102-07, 9-10-2007; Ord. [15-17](#), § 3, 4-3-2017)

~~NET RESIDENTIAL DENSITY.~~ The total number of dwelling units divided by the total number of buildable acres of a subject site.

~~NEWSSTAND.~~ Establishments primarily engaged in the retail sale of newspapers, magazines, and other periodicals including home delivery:

New Construction, For the purposes of the flood resistant construction requirements of the Florida Building Code, are structures for which the "start of construction" commenced on or after August 17, 1981 and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision, is a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after August 17, 1981.

~~NIGHTCLUB.~~ A restaurant, dining room, bar, or other similar establishment providing food or refreshments wherein paid floor shows or other forms of paid entertainment are provided for customers as part of the commercial enterprise.

~~NONCONFORMING BUILDING, STRUCTURE, SITE, OR USE.~~ A building, structure, site, or use of any premises which does not conform with all provisions of the City of Cape Coral Land Use and Development Regulations and the Cape Coral Comprehensive Plan, but which lawfully existed before its designation as non-conforming by the adoption or amendment of the City of Cape Coral Land Use and Development Regulations and the Cape Coral Comprehensive Plan.

(Ord. 44-06, 6-12-2006)

Nonconforming, is when an existing lot, structure, building, sign, development, or use of an existing lot or structure does not conform to one or more of the regulations currently applicable to the district in which the lot, structure, building, sign, development, or use is located.

Non-domestic animals, are farm animals including, but not limited to, horses, cattle, mules, goats, sheep, swine and poultry.

~~**NON-RESIDENTIAL USE.** All uses permitted without residential component of any type.~~

(Ord. 101-03, 10-20-2003)

Nonresidential Use, is a use that does not include dwelling units. Nonresidential uses include: commercial, industrial, public, park, institutional, agricultural uses without a residence, and parts of mixed-use developments not containing residential dwelling units. This includes hotels, motels, RV parks, and campgrounds.

Nonresidential zoning districts, includes the following zoning districts: Commercial (C), Professional Office (P), Industrial (I), Institutional (INST), and Preservation (PV).

Nuisance, is a thing, condition, or conduct that endangers health and safety, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life.

~~**NURSING CARE HOME.** A facility for the aged, chronically ill, or convalescent patients in which persons, not of the immediate family, receive lodging, personal care, and nursing services as defined in F.S. Chapter 464.~~

Occupancy, means the residing of an individual overnight in a dwelling unit or the installation, storage, or use of equipment, merchandise, or machinery in any public, commercial, or industrial building.

Occupancy, Change of, means the discontinuance of an existing use and the substitution of a use of a different kind or class in that same space.

Offset Point, means the distance from the property line where a marine improvement may be built. See Diagram 5.5.4.C.

~~**OFF-STREET PARKING AREA.** An area that includes parking spaces or stalls and associated vehicular use areas, curbing and pavement. Off-street parking areas include surface parking lots and similar facilities, but do not include parking structures.~~

(Ord. 15-12, 9-10-2012)

~~**OFFSET.** A portion of a building upper story, roof, or ledge where the upper face is set back, including dormers, reverse dormers, eyebrow windows and other similar roof elements.~~

(Ord. 84-07, 5-12-2008)

On-Site Sewage System, is a sewage-treatment system that includes a settling tank through which liquid sewage flows and in which solid sewage settles and is decomposed by bacteria in the absence of oxygen.

Open Space, Land and water areas retained for use as an active or passive recreation areas or for resource protection in an essentially undeveloped state.

Ornamental Grass, A self-supporting, non-woody, perennial species of the plant family, Poaceae, Juncaceae, or Cyperaceae, that is not mowed but is allowed to grow to its full potential and is used in the landscape in the same way as a shrub.

Ornamental Wall, a wall that that is not used in the support of a building.

OUTDOOR. Refers to that which is not within a building.

Outdoor Lighting, means lighting equipment installed within the property line and outside the building envelopes, whether attached to poles, building structures, the earth, or any other location; and any associated lighting control equipment.

Outdoor Storage, means the storage of any material for a period greater than 48 hours, including items for sale, lease, processing, and repair (including vehicles) not in an enclosed building.

Outdoor Screened Storage, the keeping of any goods or products within a structure not defined as a building, or within a completely fenced or walled in area. The goods shall be screened by the structure, wall or fence so as not to be seen from any other property.

Outdoor Venue, means a commercial establishment which offers entertainment outside of a building, including music.

Outdoor Entertainment Event, means a temporary, outdoor event utilizing amplified sound equipment, not associated with an established outdoor venue.

Owner-occupied, means a vacation rental that is the primary and permanent residence of the owner of the property.

OUTPARCEL. Within a development containing multiple parcels, a parcel that is subordinate to and often divided from a main parcel or tract, defined by metes and bounds or by a subdivision plat depicting it as an undivided tract, intended for conveyance to a party subsequent to the original developer, or withheld by the developer for development separately from the majority of the main parcel. An outparcel is typically significantly smaller than the main parcel(s), does not contain the primary building or buildings associated with the development, and is intended for development of one or more smaller freestanding buildings. Although not necessarily contiguous to a main parcel, an outparcel is generally located along the perimeter of and interrupts the frontage of one or more main parcels. An outparcel is generally subordinate to one or more main parcels for access or drainage purposes.

Outside Corner parcel, means a parcel of land which projects into one or more waterways so as to have two or more sides abutting such waterway(s).

(Ord. 101-03, 10-20-2003; Ord. 84-07, 5-12-2008)

OVERHANG. Structural projection of an upper story or roof beyond the story immediately below.

(Ord. 101-03, 10-20-2003)

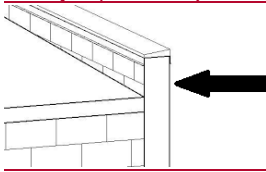
Owner, when used in relation to a motor vehicle or trailer, any person to whom a motor vehicle or trailer is registered according to the certificate of title for the motor vehicle or trailer and, if the motor vehicle or trailer is under lease, rental agreement, or on loan under any type of arrangement, gratuitous or otherwise, shall include the person having possession or control of the vehicle. When used in relation to privately real property in a residential zoning district, the term shall mean the owner according to the latest ad valorem tax records of the county and, if the privately property is under lease, rental agreement, agreement for deed, or similar land contract shall include the person in possession and control of the property.

PACKAGE STORE. A place where alcoholic beverages are dispensed or sold in factory sealed containers for consumption off premises.

PARAPET. Portion of an exterior wall that extends above the roof.

(Ord. 101-03, 10-20-2003)

Parapet, is that portion of the facade which extends above the roof.



Parcel, means a contiguous land under one ownership.

PARKING STRUCTURE. A building or structure that allows the off-street parking of motor vehicles on two or more stories, on any building or structure rooftop, or on any story above the first story, or below grade with a building or structure above, whether the structure is provided only for vehicles of occupants of the principal use or the structure is available for the use of the general public.

Park Trailer, is a transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances.

Parking, Off-Street, is space designed for the parking of automobiles on premises other than streets.

Parking, On-Street, is the storage space for an automobile that is within the street right-of-way.

Parking, Satellite, is off-street parking spaces that are not on the same lot as the principal use.

Parking, Shared, means joint use of a parking area by more than one use.

Paved, means ground covered with stone, brick, concrete, asphalt, or other substantial matter making a firm, smooth, and level surface.

Paver, is a grid block designed for use as a driving or parking surface, installed with cavities (either the kind in which grass can be planted or between the blocks) to minimize impervious surface and reduce runoff.

Pedestrian-Friendly/Oriented, means the density, layout, and infrastructure that encourages walking and biking within a subdivision or development, including limited setbacks, front porches, sidewalks, and bikepaths.

~~**PERGOLA.** A structure of colonnades supporting an open roof of crossing rafters or trellis.~~

Pergola, is a structure, either freestanding or attached to a façade, usually consisting of parallel colonnades supporting an open roof of girders and cross rafters built as an outdoor element for partial shade.

(Ord. 91-05, 11-14-2005; Ord. 15-12, 9-10-2012; Ord. [31-16](#), § 2, 8-1-2016)

Permit, Conditional Use, is a use that is permitted if all specified conditions have been adhered to.

Person, means individuals, partnerships, associations, and corporations.

Personal Services Establishment, is an establishment which offers specialized services purchased frequently by the consumer. Included are barbershops, beauty shops, chiropractic, dance studios, and massage clinics, garment repair, tailoring, shoe repair, pet grooming, indoor pet sitting, and beauty clinics, fitness centers, laundromats, drycleaners, photography and instructional studios, tattoo and piercing studio, martial arts studios, and other similar establishments. These uses may include accessory retail sales of products related to the services provided.

Pervious Surface, is any surface which allows a minimum of 80 percent precipitation from any source to infiltrate directly into the ground.

~~**PET CEMETERY.** An area of land set apart for the sole purpose of the burial of bodies of dead animals and for the erection of customary markers, monuments, and mausoleums.~~

~~**PET SERVICES.** Establishments primarily engaged in providing grooming, obedience training, and other services for pets not requiring the services of a veterinarian and not including animal clinics or kennels.~~

~~**PET SHOP.** Establishments primarily engaged in the retail sale of pets and pet supplies.~~

~~**PHARMACY.** An establishment strictly for the preparation and dispensing of prescription drugs and medicines and related products.~~

~~**PHOTOFINISHING LABORATORIES.** Establishments primarily engaged in developing films and in making photographic prints and enlargements for the trade.~~

Photovoltaic Solar System, is a system which uses one (1) or more photovoltaic panel(s) installed on the surface of a roof, parallel to a sloped roof or surface or rack-mounted on a flat roof, to convert sunlight into electricity.

Pickup Truck, is any motor vehicle designed primarily for the transportation of property within a permanently attached open cargo box and having a gross motor vehicle weight of no more than 17,500 pounds, a height of no more than 82 inches (measured from the ground to the vehicle's highest point excluding antennae), no more than six wheels, and no more than two axels.

~~**PILASTER.** A shallow rectangular column projecting only slightly from a wall.~~

(Ord. 84-07, 5-12-2008)

Pilaster, is a rectangular column, especially one projecting from a wall.



Place of Religious Assembly, is a use within a permanent building that provides regular organized worship and related incidental activities, except primary or secondary schools and day care facilities.

~~**PLACE OF WORSHIP.** A structure or structures designed primarily for accommodating an assembly of people for the purpose of religious worship including related religious instruction, church/synagogue ministries involving classes for 100 or less children or adults during the week, and other church/synagogue sponsored functions, which do not exceed the occupancy limits of the building. Structures may also include utility buildings ancillary to the principal use. Day care services for members may also be provided.~~

~~**PLANNED DEVELOPMENT PROJECT (PDP).** A complex of structures and uses planned as an integral unit of development rather than as a single principal structure or use on a single lot. (See § 4.1.9B.)~~

Planned Unit Development (PUD), is an area of land zoned and improved as a development for which the otherwise applicable use and development requirements to allow for more flexible planning in conformance with the development approval process and developed in accordance with the provisions of this ordinance.

~~**PLANNING AND ZONING COMMISSION.** The City of Cape Coral, Florida, Planning and Zoning Commission, or its successor agency.~~

PLANT NURSERY. Any lot, structure or premises used as an enterprise for the purpose of growing or keeping of plants for sale or resale.

PLAT. A map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and any other required information.

PLAYHOUSE. See definition for **PLAYHOUSE** contained in § 3.1.6A. of the City of Cape Coral Land Use and Development Regulations, which definition is incorporated herein in its entirety by reference.

(Ord. 68-98, 11-30-1998)

PLAZA. An unroofed, open space that is open to a public sidewalk on at least one side.

(Ord. 91-05, 11-14-2005)

Point of Intersection, is the point where two rights-of-way would meet if they were extended straight rather than curving to create a rounded corner at an intersection.

Pole-Mounted, means an antenna attached to or upon an electric transmission or distribution pole, a streetlight, a traffic signal or similar facility within the public right-of-way or a utility easement. A utility pole-mounted facility shall not be considered a wireless telecommunication facility.

PORCH. An elevated, roofed, and un-walled platform on the facade of a building.

(Ord. 91-05, 11-14-2005)

Porch, is a covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes and is not used for livable space.



Portico, means a structure consisting of a roof supported by columns at regular intervals, typically attached as a porch to a building.



~~PORTICO, ATTACHED.~~ Permanent structural cover affixed to and extending from the wall of a building, protecting a doorway or walkway from the elements.

~~(Ord. 101-03, 10-20-2003)~~

~~PORTICO, DETACHED.~~ Freestanding structure which covers a walkway or service area.

~~(Ord. 101-03, 10-20-2003)~~

~~PREMISES.~~ A lot or other tract of land under one ownership and all the structures and uses on it.

Premises, is a distinct unit or parcel of land including the appurtenances thereon.

Primary Frontage, is any portion of a property that faces any public Right-of-Way defined as a Boulevard, a Parkway, or fronting Pine Island Road.

Primary Frontage Line, see “Build-to-Line.”

~~PRINCIPAL BUILDING OR STRUCTURE.~~ The building or structure in which is conducted the principal use of the lot on which it is situated.

~~PRIVATE PARK.~~ A park facility operated by an association or organization which is open only to bona fide members and guests of said association or organization. Commercially operated parks are not within this definition.

Private Property, is property that is owned, leased, operated, maintained or controlled by one or more individuals or entities other than the city.

~~PROCESSING AND WAREHOUSING.~~ The storage of materials in a warehouse or terminal and where such materials may be combined, broken down or aggregated for transshipment or storage purposes where the original material is not chemically or physically changed. As used herein, the term **~~PROCESSING AND WAREHOUSING~~** shall mean an establishment essentially for storage and shipment as opposed to a manufacturing establishment.

~~PROPERTY LINE.~~ The recorded boundary of a lot or other tract of land under one ownership.

Public Art or Sculpture, is any visual work of art displayed for two weeks or more in an open city-owned area, on the exterior of any city-owned facility, within any city-owned facility in areas designated as public area, lobbies, or public assembly areas, or on non-city property if the work of art is installed or financed, either wholly or in part, with city funds or grants procured by the city.

~~PUBLIC PARK.~~ Any park, playground, beach, parkway, or other recreation areas and open space, in which the county, state or federal government or other legally empowered governmental unit has an interest.

~~PRINTING SERVICE ESTABLISHMENTS.~~ A building, or portion of a building, occupied by an establishment in which a person, or persons, practice a vocation or occupation that performs a type of labor, act or work that primarily results in publishing and printing and specialized aid and assistance performed as a customer service and directly utilized by such customers in their domestic or business operations normally for a fee or charge and not for resale.

Public Parks and Recreational Facilities, means natural or landscaped areas, buildings, or structures, provided by a government, to meet the active or passive recreational needs of people.

Public Safety Facility, is a government facility for public safety and emergency services, including facilities that provides police or fire protection and related administrative facilities and training facilities.

Quay, is a modified seawall where a boat can dock parallel to the shore.

~~RADIO AND TELEVISION STATIONS.~~ A building, structure, or premises primarily engaged in the staging, production and recording of radio or television programs. Such facilities may or may not be capable of radio or television transmissions. (See **~~TOWERS, COMMUNICATIONS~~**.)

Rain Sensor, is a calibrated device that is designed to measure rainfall and override the irrigation cycle of the irrigation system when a pre-determined amount of rainfall has occurred.

~~RECREATIONAL FACILITIES. COMMERCIAL.~~ A recreation facility operated as a business and open to the public for a fee.

~~PERSONAL.~~ A recreation facility provided as an accessory use on the same premises as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests.

~~PRIVATE.~~ A recreation facility operated by a nonprofit organization, such as a homeowners or condominium association, and open only to bona fide members and guests of such nonprofit organization. This term shall not be interpreted to include fraternal or membership organization clubs.

~~PUBLIC.~~ A recreation facility operated by a governmental agency and open to the general public.

~~RECREATIONAL VEHICLE.~~ A vehicle designed for temporary living and sleeping purposes, primarily for travel, recreational, and vacation uses, which:

Is self-propelled; or

(b)

Is identified by the manufacturer as a recreational vehicle; or

(c)

Is not more than eight and one-half feet in body width, exclusive of safety devices; or

(d)

Is of any weight provided that its body length does not exceed 50 feet, exclusive of bumpers and safety devices.

Recreational Vehicle, is a vehicle, including a park trailer, which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

~~RECREATIONAL VEHICLE PARK.~~ A premises or portion of a premises in which sites are improved and offered for lease, rent, or sale in any form to be occupied by certain types of recreational vehicles, or developed with camping cabins utilized for sleeping or eating, to be used for short-term rather than permanent occupancy. A recreational vehicle park shall not be construed to be a **~~RESORT.~~**

(Ord. 1-13, 3-11-2013)

Redevelopment, is any proposed expansion, addition, or major facade change to an existing building, structure, or parking facility.

Reflecting Pool, is a shallow (less than 18" deep) pool designed as a feature of a garden, often associated with seating and/or statues

~~RELIGIOUS FACILITIES.~~ Religious-related facilities and activities which may include, but are not limited to: place of worship, bus storage facilities or areas, convents, monasteries, retreats, and church/synagogue ministries involving classes for children and adults.

Religious Institution, is a religious assembly that may also include related facilities such as a rectory, convent, private school, licensed child or adult daycare, recreational facilities, or any combination thereof.

Residential Use, means a structure or part of a structure containing dwelling units, including single-family, duplexes, multi-family dwellings, boarding or rooming houses. Residences do not include transient accommodations such as transient hotels, motels, tourist cabins, RV parks, or, in a mixed-use structure, that part of the structure used for any nonresidential uses.

~~**RESORT.** A short-term lodging facility principally for the accommodation or short-term residence of transient guests or vacationers but where the primary attraction is generally recreational amenities, features or activities and open space. Resort patrons typically enjoy recreational amenities, activities, or features including, but not limited to, golf courses, tennis courts, recreational instruction, swimming, usage of water vehicles (canoes, kayaks, paddle boats, jet skis, sailboats, etc.), and bicycle/pedestrian trails. Resorts emphasize recreation and open space while providing lodging, the density/intensity and type of which shall be compatible with future land uses and surrounding developments.~~

(Ord. ~~14-17~~, § 4, 6-5-2017) _____

Resort, is a facility principally for the accommodation or short-term residence of transient guests or vacationers, but where the primary attraction is generally recreational features or activities.

~~**RESOURCE RECOVERY CENTER.** A solid waste receiving site the purpose of which is resource recovery or recycling. Materials to be received at such centers include paper and newspaper, plastic containers and products, glass, and aluminum cans.~~

~~**RESTAURANT, FAST FOOD.** An establishment whose principal business is the sale of food and beverages in a ready to consume state for consumption:~~

(1)

~~Within the restaurant building, or outside the building but in an area set aside for customers;~~

(2)

~~Within a motor vehicle parked on the premises; or~~

(3)

~~Off the premises as carry-out orders, and whose principal method of operation includes the following characteristics: food and beverages are usually served in edible containers or in paper, plastic, or other disposable containers.~~

~~A cafeteria or delicatessen shall not be deemed a fast-food restaurant for the purpose of this ordinance. (See also **DRIVE-THRU FACILITIES**.)~~

~~**RESTAURANT, STANDARD.** An establishment whose principal business is the sale of food and beverages to customers in a ready to consume state, and whose principal method of operation includes one or both of the following characteristics:~~

(1)

Customers, normally provided with an individual menu, are served their foods and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; and/or

(2)

A cafeteria-type operation where food and beverages generally are consumed within the restaurant building.

~~**RETAIL ROADSIDE STAND, PERMANENT.** A temporary building or structure, built in accordance with all applicable Building Code requirements, which is designed, used or intended to be used for the purpose of display and retail sales of farm products, such as fruits, vegetables and flowers.~~

Retail Sales Establishment, is an establishment selling goods directly to the consumer. **Retaining Wall**, is a man-made barrier constructed for the purpose of stabilizing soil, slowing erosion, or terracing a parcel or site.

~~**REVEALS.** A groove or a step in a wall surface used to create lines, shadows, or visual interest in the wall and thereby improve the appearance of the building.~~

(Ord. 84-07, 5-12-2008)

Right-of-way, is a strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, parking strips, sidewalks, lighting, drainage facilities, and canals.

Riparian Buffer, is a vegetated buffer strip along a watercourse that filters stormwater and provides wildlife habitat.

~~**ROAD.** A private, traffic-carrying way set aside for vehicular traffic primarily serving only one premises or planned development project including private driveways, entrance or exit roads and similar private access roads.~~

Roadside Fruit and Vegetable Stand, is a temporary building or structure, built in accordance with all applicable Building Code requirements, which is designed, used or intended to be used for the purpose of display and retail sales of farm products, such as fruits, vegetables, food products and flowers.

Roof Line (Deck Line), means the highest continuous horizontal line of a roof on a sloping roof, the roof line is the principal ridge line or the highest line common to one (1) or more principal slopes of the roof. On a flat roof, the roof line is the highest continuous line of a roof or parapet, whichever is higher.

~~**ROOMING HOUSE.** A residential building used, or intended to be used, as a place where sleeping or housekeeping accommodations are furnished or provided for pay to transient or permanent guests or tenants in which less than ten and more than three rooms are used for the~~

accommodation of such guests or tenants, but which does not maintain a public dining room in the same building or in any accessory building. There shall be no independent cooking facilities of any kind in such rooms, but there may be an independent cooking facility designed for the resident manager or owner only. (See [§ 3.3\(e\)](#).)

Runoff, is stormwater leaving a site due to the force of gravity.

Sand Dunes, are naturally occurring accumulations of sand in ridges or mounds landward of the beach.

School, is an institution for the teaching of children or adults including primary and secondary schools, colleges, professional, dance, business, trade, art, and similar facilities.

SCHOOLS. Institutions functioning as educational facilities and providing education curriculum(s). This category shall include, but not be limited to, educational facilities offering elementary and/or secondary grades (regardless of whether such facility offers a preschool or kindergarten), special classes, adult education programs, vocational and/or technical education facilities, colleges and universities, whether offering educational programs full-time or part-time, and day or evening classes. Preschool(s) and kindergarten(s) which are affiliated with an education facility(ies) offering grades one and/or higher which is categorized as a **SCHOOL** herein shall be deemed to be a part of such "school facility" and shall not be deemed child care facilities.

(Ord. 3-97, 2-10-1997)

Screened, means obscured from public view.

Screening, is a visual barrier consisting of permanent, dense vegetation, or other permitted structure at least equal in height to the recreational vehicle, boat, or boat trailer but which does not violate any height limitation for barriers in the applicable zoning district.

Seating Capacity, is the actual number of seats available for use based upon the number of seats or one seat per 24 inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the Florida Building Code.

Seawall, is a wall built along a shoreline.

SELF-SERVICE FUEL PUMPS. Vehicle fuel dispensing pumps providing an accessory use to a permitted retail trade establishment but in which only "self-service" pumps are provided and no other vehicle service is provided.

SELF-SERVICE FUEL PUMP STATION. An establishment which is primarily for the purpose of retail selling of motor vehicle fuels and in which no other vehicle service is provided. Ancillary sales may include some convenience commodities such as tobacco or dairy products.

Self-Service Storage Facility, is a building used for the storage of personal property where individual owners control individual storage spaces.

Self-Sufficient Mobile Food Unit, is a mobile food unit containing, as part of the vehicle, a three-compartment sink for washing, rinsing, and sanitizing equipment and utensils; a separate hand-wash sink; adequate refrigeration and storage capacity; full provision for of power utilities including electrical, LP gas, or a portable power generation unit; a potable water holding tank; and a liquid waste disposal system.

Septic Tank, see on-site sewage system.

~~**SETBACK.** The area between the parcel line and the setback line.~~

~~(Ord. 68-98, 11-30-1998)~~

Setback, is the minimum horizontal distance between a structure and a property line.

~~**SETBACK LINE(S).** The line(s) located at the minimum or maximum distance from the lot line and establishing the area in which buildings may be erected or placed on the lot.~~

~~(Ord. 68-98, 11-30-1998; Ord. 15-12, 9-10-2012)~~

~~**SEWAGE.** Human body wastes and the wastes from toilets or other receptacles intended to receive or retain body wastes and wastes either solid or liquid resulting from the preparation of food or cleaning utensils and dishes used in the preparation and serving of food.~~

~~**SEXUALLY ORIENTED BUSINESS.** See definition for **SEXUALLY ORIENTED BUSINESS** contained in [§ 12-62](#) of the City of Cape Coral Code of Ordinances, which definition is incorporated herein in its entirety by reference.~~

~~(Ord. 49-94, 10-11-1994)~~

~~**SHED.** Any residential accessory structure that is utilized for the purpose of storage of household items such as lawn and garden equipment, pool equipment, toys, or hobby or other recreational items, or as a hobby-related workshop, and that does not have a door or other entranceway into a dwelling unit.~~

~~(Ord. 1-01, 2-5-2001) _____~~

Shed, is an accessory structure, attached or detached from the primary structure, which is used primarily for storage and not intended for human occupancy. A shed shall not include storage containers or shipping containers.

~~**SHOPPING CENTER.** A grouping of consumer-oriented commercial establishments, planned and developed as a single structure or under a unified architectural theme, owned and managed as a unit, and providing a range of goods and services specific to a definable market area, and providing customer and employee parking off-street and on-site.~~

Shopping Center, is a group of retail and other commercial businesses that are within a development.

Shrub, is a woody plant that produces multiples stems or trunks rather than a single tree-like stem.

Sidewalk, is an improved pedestrian surface that is typically in a right-of-way.

Sign Related Definitions

Abandoned Sign, is a sign whose message describes the availability of goods or services at a location where such goods and services are no longer available and have ceased to be available for a period of at least 60 days or, in the alternative, a sign which is non-commercial in nature and the content of the sign pertains to a time, event or purpose which has elapsed or expired in the preceding 60 days.

A-Frame Sign, is a sign that is self-supporting and portable with steeply angled sides that meet and are adjoined at the top to form the shape of the letter "A." Two individual signs attached at the top that were not manufactured to be an A-frame sign shall not be considered to meet this definition.

Animated Sign, is a sign that uses movement or change of lighting to depict action or the appearance of motion. This definition includes blinking, flashing, moving and revolving signs; strobe, laser, fiber optic, search lights and string lighting of any type. Time and temperature devices shall not be considered animated signs. In addition, temporary electronic changeable message signs required by government agencies for road and street repairs and similar activities shall not be considered animated signs.

Awning, is a cloth, plastic, or other non-structural covering or canopy which is permanently attached to a building, regardless of whether the covering or canopy can be raised or retracted to a position against the building when not in use.

Awning Sign, is a sign that is painted, installed, or otherwise applied to or located directly on an awning. For purposes of this article, signs that are suspended from awnings shall not be considered awning signs.

Backlit Awning, is an awning comprised of covering material exhibiting the characteristic of luminosity obtained by means of a source of illumination contained within its framework.

Bandit Sign: means the same as a snipe sign. See Snipe sign.

Banner.

- (1) A sign composed of a logo, characters, letters, illustrations, or design on a lightweight material either enclosed or not enclosed in a rigid frame and secured or mounted to allow movement caused by the atmosphere, including feather banners, streamers, and pennants but not including flags.
- (2) A string of pennants consisting of any series of pieces of cloth, plastic, paper, or other material attached in a row at only one or more edges, or by one or more corners, the remainder hanging loosely, to any wire, cord, string, rope, or similar device shall be considered a banner.

Bench/Shelter Sign, is any sign painted on or attached to a bus bench or to a bus waiting or phone booth shelter.

Blinking Sign, see Flashing Sign.

Building Frontage, is the dimension (measured in linear feet) of the overall width of the primary side of a building containing one or more business establishments or other entities. For purposes of this article, the primary side of a building shall be the side of the building that includes the primary entrance or the side of the building that faces the front lot line, at the option of the property owner. If the primary entrance is at an angle, the property owner may choose the building frontage. On a site with multiple buildings, if a building does not directly face a street, the building frontage will be considered the street that other adjacent or contiguous buildings face.

Building Sign, Is any sign attached to any part of a building, as contrasted to a freestanding sign.

Changeable Copy Sign (Manual), is a sign or portions thereof with characters, letters, or illustrations that can be changed or rearranged manually, on the sign itself, without altering the face or the surface of the sign.

Commercial Sign, is a sign that, directly or indirectly, names or calls attention to a business, product, service, or other commercial activity. For purposes of this article, all signs on non-residential property shall be presumed commercial; however, the presumption shall be considered rebuttable and may be overcome if a reasonable person could logically conclude that the presumption is invalid. For purposes of this article, terms such as sale, special, clearance, or other words which relate to commercial activity shall be deemed to be commercial messages. The identification by name of an apartment or condominium development on a residential sign at the apartment or condominium development site shall not be considered a commercial message.

Development Identification Sign, is a permanent sign, either ground sign or located on a subdivision entry feature or perimeter wall, at a main entrance to a subdivision or residential development identifying the name of the development or subdivision.

Directional Sign, is a sign denoting the business names, location, addresses (real or virtual), and/or occupations of those tenants located upon a subject site or which provides information as to the location of a parking lot, building entrance, or other destination, activity, or facility and contains no commercial message.

Electronic Message Center (EMC). Is a variable message sign that utilizes computer generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs, LCDs or a flipper matrix.

Fascia Sign, Is a sign located on the fascia of a roof or canopy, or affixed to the front of a mansard roof, including signs that extend the plane of the structural fascia such that the vertical dimension of the sign is no more than one-third the distance from the ground to the bottom of the fascia, and lateral supports are used.

Feather Banner, Is a type of temporary lightweight sign comprised of a partial metal or plastic frame, pole, and/or base to which a vinyl, nylon, canvas, or polyester fabric sign face is attached. Depending on the shape and type of movement, such signs also may be called "flutter," "teardrop," "flying," "wing," "bow," "blade," "rectangular," or other banners.

Figure Structured Sign, Is any sign which consists of and/or contains a three dimensional character, symbol, or emblem portraying a commercial message which exists solely to attract the attention of the public. For purposes of this article, memorial signs shall not be considered a **FIGURE STRUCTURED SIGN** .

Flag, Is any fabric or bunting used as a symbol, as of a nation, government, political subdivision, or other entity, or as a signaling device.

Flag Standard, Is a readily transferable device or pole which supports flag(s). A tubular device which is set in the ground and does not extend above ground level, and any poles or tubes that support a flag or flags and are either inserted into the tubular device set in the ground or inserted directly into the ground, are flag standards, provided the poles or tubes supporting the flag(s) do not extend more than eight feet above ground level.

Flagpole, Is a permanently attached fixture or pole which supports flags.

Flashing Sign, Is any illuminated sign, on which the artificial source of light is not maintained stationary or constant in intensity and color at all times when such sign is illuminated. For the purposes of this definition, any moving illuminated sign affected by intermittent lighting shall be deemed a flashing sign.

Freestanding Sign, Is any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building, wall, fence, vehicle, or object other than the sign structure for support.

Incidental Sign, Is a sign, generally informational, that has a purpose secondary to the use of the site on which it is located. Furthermore, the term **INCIDENTAL SIGN** shall not include a sign designed to be transported by means of wheels, a sign converted to an A- or T-frame, a sandwich-board sign, or a skid-mounted sign, regardless of the nature of the information that such sign may contain.

Inflatable Object, Is an object of any shape that is expanded or capable of expansion by means of air or gas, such as a balloon, wind sock, or air tube, and which is used as a means of attracting attention to a site, product, or event.

Integral Sign, Is a sign which is built in to or constructed as part of the architectural design of the building and if removed would change the design of the building.

Interior Sign, Is a sign located within the interior of any building, or within an inner, outer, or enclosed lobby or court of any building or theater, not including window and door signs.

Logo, Is an emblem, character, pictograph, trademark, or symbol used to represent a firm, organization, entity, product, or service.

Marquee, Is any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Memorial Sign, Is a permanent commemorative or historical sign, plaque, inscription, or similar group of symbols that is engraved on a building or a cemetery tombstone or that is located at a memorial erected by, or with the approval of, a governmental entity. For purposes of this definition, a memorial includes any building, structure, or location intended to honor persons, places, or events.

Menu Board, Is a permanently mounted sign located adjacent to and oriented toward a lawfully established drive-through lane of a commercial enterprise.

Multiple Business or Entity Sites, Is any development containing two or more tenants on one ownership parcel that is zoned professional, commercial, industrial, mixed use, institutional, downtown, or agricultural. In addition, this term shall include all properties approved under any planned development project that are zoned commercial, professional, industrial, mixed use, institutional, downtown, or agricultural. **MULTIPLE BUSINESS OR ENTITY SITES**, for purposes of this article, shall be deemed to also include developed properties located within 25 feet of an improved public parking lot or area, and for which such public parking lot or area provides the minimum parking needs required for such developed properties as well as the public parking lot or area itself.

Murals, Is any figures, designs, pictures, characters, etc. which are painted or adhesively applied directly onto the window or wall of a building. For purposes of this article, figures, designs, pictures, characters, etc. which are nailed, bolted, or otherwise attached to a building wall or window are not "applied directly" onto the wall or window of a building and, therefore, are not murals. For purposes of this article, **MURALS** are not signs so long as they contain no logo, words, or letters, either foreign or domestic. In the event a figure, design, picture, or character, that contains words or letters, either foreign or domestic, is painted or otherwise applied directly onto the window or wall of a building, the entire such figure, design, picture, or character is not a mural, but instead is a **SIGN**, the area of which shall encompass the entire figure, design, picture, and/or character that is applied directly onto the window or wall and not merely the portion containing the logo(s), word(s), or letter(s).

Nameplate Sign, Is a sign indicating the name, profession, address, or some combination thereof, of a person, persons, business, or other entity legally occupying the building, unit, or establishment.

Noncommercial Sign, Is a sign which does not meet the definition of a commercial sign.

Obscene Sign, Is a sign whose contents meet the judicially established definition of obscenity or that is otherwise considered obscene under Florida Statutes.

Off-Site Sign, Is a permanently or temporarily affixed or hand-held sign identifying, advertising, or directing the public to a commercial business, product, service, entertainment, or activity which is located, sold, rented, based, produced, manufactured, or furnished or taking place at a location other than on the property or multiple business or entity site on which the sign is located. A sign containing a non-commercial message shall not be considered to be an off-site sign.

Parasite Sign, Is any sign not exempted by the sign code, for which no permit has been issued, and which is hung from, attached to, or added onto an existing sign.

Portable Sign, Is any non-exempt sign that is not permanently located on or attached to the ground, permanent structure, an inflatable object or umbrella, or that is hand held, worn as part of a costume or item of clothing, or that is designed to be transported, including, but not limited to: signs designed to be transported by means of wheels; a sign converted to a T-frame; or skid-mounted signs. A hand held sign or a sign worn as part of a costume or item of clothing containing a non-commercial message shall not be considered to be a portable sign.

Projected Image Sign, Is a sign that uses technology to project an image, logo, or other graphic on buildings, structures, sidewalks, or surfaces. The image itself has no physical structure but is still considered a sign.

Reflective Sign, Is a sign constructed of mirrors or other surfaces that reflect light.

Raceway, is a structure used for wall-mounted signage with individual letters or characters, located upon the exterior wall surface between the wall and the letters or sign characters. Raceways contain wiring, conduit, transformers, and other electrical components.

Residential Sign, is any sign, not otherwise defined and regulated in this article as an allowed sign in a residential zoning district, located in a district zoned for residential uses that contains no commercial message.

Roof Sign, is any sign, structure, or object painted or affixed to the roof of any building, excluding components integrated into the design of the roof structure, provided that no part of the sign, structure, or object extends vertically above the highest portion of the roof nor extends horizontally breaking the vertical plane of the roofline and/or building, whichever is greater.

Rotating, Is a sign that revolves or turns or has external sign elements that revolve or turn. Such sign may be power-driven or propelled by the force of wind or air.

Sign, Is any character, letter, figure, symbol, design, model, or device, or combination thereof, and all parts composing the same, together with the frame, background, or support, which is used to attract attention or to convey a message, regardless of the type of surface upon which the message appears and regardless of whether it is permanently affixed, portable, hand held, or worn as part of a costume or item of clothing.

Sign Blade, Is a sign that is attached to a real estate sign or support structure.

Snipe Sign, is a sign made of any material when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to or placed on public property such as but not limited to a public utility pole, a public street sign, a public utility box, a public fire hydrant, a public right-of way, public street furniture, or other public property; except for A-frame signs that are temporarily placed on public property under such limitations and constraints as may be set forth in the Land Development Code.

Street Frontage, is the linear dimension of the front of a building site as described in Article III, § 3.8 of the Land Use and Development regulations. In the case of a double frontage site and for the purpose of administration of this article, this dimension shall be based on a single lot front adjacent to the street right-of-way of which the site is addressed.

Suspended Sign, is a sign, other than a parasite sign, that is suspended from and supported by the underside of an awning, a marquee, a fascia, an umbrella, or a building overhang.

Temporary, means not exceeding 30 consecutive days in duration or of such limited duration as otherwise provided in this article.

Tenant, is any person, agent, firm, corporation or division who uses or occupies land, a building or portion of a building by title, under a lease, by payment of rent or who exercises limited control over the space, where the space meets the Florida Building Code requirements of fire partitions which require a wall permitted by the building type of construction that is fire-resistant rated of not less than one hour that separates individual tenant spaces.

Traditional Public Forum, is a place that has, by tradition or practice, been held out for general use by the public, including, but not limited to, public parks, sidewalks, and areas that have been open to political speech and debate.

Traffic Control Device Sign, is any Government Sign located within the right-of-way that is used as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard. A traffic control device sign includes those Government Signs that are classified and defined by their function as regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information).

Vehicle Sign, is any sign that is attached to or painted on a vehicle or trailer, parked to be visible from and to clearly provide advertising visible from the public right-of-way or parked on public property to clearly provide a commercial message close to the public right-of-way, unless said vehicle is used by a proprietor or employee of the business for commuting between the business location and home or is used in the usual course or operation of a business. Factors to be considered in determining whether a vehicle is used

in the usual course or operation of a business shall include whether the vehicle is operable, whether the vehicle has a current registration in the State of Florida, the role the vehicle plays in the business, and the frequency with which the vehicle is used in the course or the operation of the business. In addition, any sign that is composed of fabric, paper, or other lightweight material, or wood (unless the wood is an integral part of the vehicle itself), or that is physically supported by a motor vehicle, but not applied directly to the surface of the motor vehicle, or that is attached to the vehicle in such a manner as to constitute a safety hazard if the vehicle were to be driven with the sign in place, such as signs located so as to impair the vision of the driver of the vehicle or insecurely mounted so as to present a danger of falling off the vehicles while it is being driven, shall be presumed to be a vehicle sign. Further, any sign bearing a commercial message that is attached to or painted on a vehicle or trailer which is routinely parked or otherwise located on a site or sites other than that at which the firm, product, or services advertised on such sign is offered shall be presumed to be a vehicle sign.

Window/Door Sign. Any sign, picture, symbol, or combination thereof that is placed upon a window or door and that is visible from the exterior of the window or door. The term **WINDOW/DOOR SIGN** shall not include interior signs and/or product displays that are located inside a business unit and that are visible from outside the business unit. Furthermore, murals on windows or doors shall not be deemed to be **WINDOW/DOOR SIGNS**.

Sill, means a shelf or slab of stone, wood, or metal at the foot of a window or doorway.

~~**SINGLE-FAMILY RESIDENCE.** See **DWELLING UNIT, TYPES**.~~

(Ord. 91-05, 11-14-2005)

Site Development Plan, is the 100% detailed set of construction plans for installation of land development improvements for a site which must be approved prior to the release of a site development permit.

~~**SITE PLAN.** A map, plan or chart of a tract of land or property which is drawn to scale and shows the existing or proposed location of boundary lines, buildings, structures, uses or any other required data or information.~~

~~**SLEEPING ROOM.** A single room rented for living purposes, but without cooking facilities or other amenities for separate and independent housekeeping. A **SLEEPING ROOM** shall not be construed to mean a dwelling or sleeping unit.~~

~~**SLEEPING UNITS.** A single room or suite intended for occupancy by transient persons which are lodged with or without meals for compensation. A **SLEEPING UNIT** shall not be construed to mean a dwelling unit. Such units shall not contain any cooking facilities of any kind.~~

Slope, is the degree of deviation of a surface from the horizontal, usually expressed in percent, degrees, or rise over run.

Socially-Active Open Space, is open space with a minimum width of 30 feet that is created and designed for year-round active use by the public in the form of active lawn areas, plazas, squares, courtyards, and gardens. Amenities are logically arranged and typically include paths, formal or informal planting areas, and furnishings.

Sod, is the grass-covered surface of the ground and the soil below the surface only to the depth of the roots of the grass.

Solar Photovoltaic (PV) Arrays, is a device or combination of devices or structures that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's energy supply

~~**SOLID WASTE.** Garbage, trash, refuse and other discarded solid material, including solid waste materials resulting from commercial, industrial or agricultural operations, but does not include materials in sewage, in industrial waste water effluents or in storm water runoff.~~

Sound Amplification Device, means equipment designed to increase the volume of sound created by a separate source such as a musical instrument or a human voice. The term does not include a standard radio, DVD player or similar device, but does include "stand alone" amplified microphone systems.

Special Event, is a preplanned single gathering, event or series of related consecutive gatherings or events of an entertainment, cultural, recreational, educational, political, religious, or sporting nature, or any nature, that is sponsored by an individual or entity and is open to the public in general.

Special Exception, is a use which is essential to or would promote the public health, safety, or welfare in one or more districts, but which would impair the integrity and character of the district in which it is located, or in adjoining districts unless restrictions or conditions on location, size, extent and character of performance are imposed in addition to those imposed in this ordinance.

~~**SPECIAL EXCEPTION USE.** A use which is essential to or would promote the public health, safety, or welfare in one or more districts, but which would impair the integrity and character of the district in which it is located, or in adjoining districts unless restrictions or conditions on location, size, extent and character of performance are imposed in addition to those imposed in this ordinance.~~

Special Flood Hazard Area, is an area in the floodplain subject to a 1% or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1 A30, AE, A99, AH, V1 V30, VE or V.

~~**SPORTS ACADEMY.** A commercial school which provides instruction for amateur and professional athletes and that includes ancillary lodging, cafeteria, and sports facilities for use by athletes.~~

(Ord. ~~14-17~~, § 4, 6-5-2017)

~~STABLE, BOARDING.~~ Any location where horses are kept which is not a "Private" or "Commercial Recreation Stable" as defined herein, for a fee.

(Ord. ~~71-91~~, 9-23-1991)

~~STABLE, COMMERCIAL RECREATION.~~ Any location where horses are kept principally for sale or hire.

~~STABLE, PRIVATE.~~ Any premises where horses, which are owned by and solely for the use of the occupants of the premises, are kept. A private stable is an ancillary use to the principal residence.

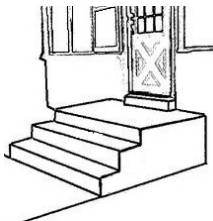
~~STANDARD INDUSTRIAL CLASSIFICATION (SIC).~~ A two, three, or four digit numeric code that identifies commercial or industrial activities and classifies firms according to standards set down in the **~~Standard Industrial Classification Manual~~**, 1972 (Washington: GPO, 1972) as revised 1987.

Start of Construction, is the date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns. Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual Start of Construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

~~STOOP.~~ A small, un-walled, elevated entrance platform which includes a means of access, generally being stairs or a ramp, and which usually leads to the main entrance door of a building.

(Ord. ~~91-05~~, 11-14-2005) _____

Stoop, means a small staircase ending in a platform and leading to the entrance of a building.



~~STORAGE.~~ The safekeeping of any goods, wares, products, or other commodities in any area for more than 48 hours for later use or disposal. This term shall not include animals, nor shall it apply to customary and usual activities accessory to agricultural or residential dwellings.

~~STORAGE, DEAD.~~ The storage of goods, wares, products or other commodities, with no sales, conferences, or other human activity other than the placement, removal, or sorting of stored items. See **~~WAREHOUSE, PUBLIC.~~**

(Ord. 71-91, 9-23-1991)

~~STORAGE, ENCLOSED.~~ The keeping of any goods or products within a structure not defined as a building, or within a completely fenced or walled in area. The goods shall be screened by the structure, wall or fence so as not to be seen from any other property.

(Ord. 18-99, 5-3-1999)

~~STORAGE, INDOOR.~~ Storage accessory to a permitted use and which is contained wholly within a building. When listed as a permitted or permissible use in the Zoning District Regulations, it shall not be construed to mean "Warehouse" or "Mini-warehouse".

~~STORAGE, OPEN.~~ Any storage not defined as "Indoor" or "Enclosed".

Stormwater, is the flow of water or the water itself which results from precipitation.

~~STORY.~~ That portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above. **~~STORIES~~** used exclusively for parking vehicles count the same as habitable stories. Where upper floors are partially omitted to create an atrium or other taller space, the number of stories shall be determined by the portion of the building where the upper floors have not been omitted. Space within a roofline that is entirely non-habitable shall not be considered to be a **~~STORY.~~**

(Ord. 91-05, 11-14-2005)

~~STORY, FIRST.~~ The lowermost story that is entirely above grade.

(Ord. 15-12, 9-10-2012)

~~STREET.~~ A public traffic-carrying way set aside for vehicular traffic, regardless of size or designation, but excluding roads.

(a)

~~FREEWAYS~~ and **~~INTERSTATES.~~** Arterial streets designed primarily for major through traffic with full control of access and grade separations at all intersections.

(b)

~~ARTERIAL STREETS.~~ A street designed or utilized primarily for high vehicular speeds or for heavy traffic volumes.

(e)

~~MAJOR COLLECTOR STREETS.~~ A street which carries, or will carry, medium traffic volumes primarily from minor collector streets to arterial streets.

(d)

~~MINOR COLLECTOR STREETS.~~ A street which carries, or will carry, medium traffic volumes primarily from minor streets to major collector streets.

(e)

~~MINOR STREETS.~~ A street which is used or will be used primarily for access to abutting properties and which carries, or will carry, limited traffic volumes.

(f)

~~MARGINAL ACCESS STREETS.~~ A minor street which is parallel to and adjacent to arterial streets and which serves to reduce the number of access points to the arterial streets and thereby increase traffic safety.

(g)

~~ALLEY.~~ A street used primarily for vehicular service access to the back or side of properties which otherwise abut on a street. However, in the downtown zoning district(s), when these regulations refer to "visible from a public street", "facing a street", or similar language, the term street shall not be deemed to include alleys.

(Ord. 91-05, 11-14-2005; Ord. 15-12, 9-10-2012)

Streetscape, is the visual image of a street, including the combination of buildings, parking, signs, and other hardscape and street furniture

~~STRUCTURE.~~ Any combination of materials fabricated to fulfill a function in a fixed location on the land, including buildings and signs.

Structure, is anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground including but not limited to fences, signs, kiosks, or similar uses.

Structure-Mounted, means a wireless telecommunications facility, tower or antenna which is mounted to an existing building or structure not otherwise meant to support a wireless telecommunication facility, tower or antenna.

~~STUDIO.~~ An establishment in which an artist or craftsman practices their art, craft, or vocation.

Subdivision, is the division of land into two or more lots or a development consisting of multiple subdivided lots.

Subdivision Construction Plan, is the 100% detailed set of construction plans for installation of land development improvements of a subdivision which must be approved prior to the release of a subdivision infrastructure permit.

Subdivision Plat, is the schematic representation of land divided or to be divided.

Subdivision Plat, Final, is the plat to be given final approval which includes all changes, additional information, and requirements imposed by the city. The final plat is recorded in the county clerk of courts.

Substantial Damage, is the damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50% of the market value of the building or structure before the damage occurred.

Substantial Improvement, is any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a five-year period, the cumulative cost of which equals or exceeds 50% of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five-year period begins on the date of the first improvement or repair of that building or structure subsequent to August 17, 1981. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; and
2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

Substantial Renovation, means repair or changes worth 50%, or more, of the fair market value of the structure and improvements, not including the land.

~~**SUPERMARKET.** A retail establishment which is principally for the sale of general food items on a cash and carry basis, generally self-service in arrangement, and frequently with a wide range of nonfood items including sundries, package sale of alcoholic beverages, hardware and the like, and frequently housing discrete but subordinate commercial operations, such as, bakeries, restaurants, pharmacies and package stores. A **SUPERMARKET** is to be distinguished from a grocery store on the basis of scale, being usually 25,000 square feet or larger in size, and the broader mix of goods and services.~~

~~**SURFACED IN A STABLE MANNER.** The term surfaced in a stable manner shall mean surfaced in a manner approved by the Director, or other designated official; however, such pavement shall be of a stable type and shall be designed to carry the anticipated traffic loads of the premises and uses served and shall conform with appropriate current city standard specifications.~~

Swimming Pool, is a structure, whether above or below grade level, designed to hold water more than 30 inches deep to be used for recreational purposes.

~~**SWIMMING POOL SUPPLY STORE.** An establishment engaged in the retail sale of swimming pool supplies, such as pumps, motors, cleaning and maintenance supplies, and pool accessories such as spas and hot tubs.~~

~~(Ord. 6-10, 5-24-2010)~~

~~**TASTING ROOM.** A dedicated area within an artisan brewery, distillery or winery where beer, spirits, or wine is sampled and food may be served to patrons. Such facilities may also be used for the hosting of private and public events.~~

~~(Ord. 30-14, § 2, 10-20-2014; Ord. 36-15, § 4, 8-31-2015)~~

~~**TELEMARKETING ESTABLISHMENT.** An establishment primarily engaged in the selling of goods and services through telephone solicitations.~~

Temporary Storage Container, is a standardized, reusable vessel that is designed and constructed for the primary purpose of packing, shipping, and transportation of goods or freight and are designed or capable of being mounted or moved on a truck, train, or ship.

Temporary Use, is a use of land, buildings or structures that are established for a fixed period of time with the intent to discontinue the use upon the expiration of such time.

~~**THEATER, INDOOR.** A building or part thereof devoted to showing motion pictures, or for dramatic, musical or live entertainment, but not including "Nightclubs" which are specifically defined.~~

Trailer, is any vehicle without motive power designed for carrying persons or property on its own structure and to be drawn by a motor vehicle regardless of hitch type.

Trailer, Boat, is a trailer that is designed and constructed by the manufacturer for the primary purpose of carrying and launching a boat.

Transient Occupants, means any person, or guest or invitee of such person, who occupies or is in actual or apparent control or possession of residential property registered as a vacation rental. It shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of the vacation rental is a transient occupant.

~~**TRAVEL TRAILER.** A vehicular portable structure designed for temporary living and sleeping purposes, primarily for travel, recreational and vacation uses, which:~~

Is identified by the manufacturer as a travel trailer; or

(b)

Is not more than eight feet in body width; or

(c)

Is of any weight provided that its body length does not exceed 32 feet; or

(d)

Is of any length provided that its gross weight, factory equipped for use, does not exceed 4,500 pounds.

Tree, is a self-supporting plant having at least one well-defined woody stem or trunk and normally attaining a mature height of at least 15 feet, with an average mature spread of at least 15 feet.

Tree, Accent, is a smaller tree whose mature height can be expected to range between 15 feet and 30 feet and which has an expected crown spread range between 15 feet and 25 feet.

Tree, Canopy, is a larger tree species that normally achieves an overall height and spread at maturity of 30 feet or more.

Tree, Palm, is an unbranched, evergreen tree that grows in tropical regions and has a straight, tall trunk and many large leaves at the top of the trunk.

~~**TRELLIS.** An architectural structure usually made from an open framework or lattice of interwoven or intersecting pieces of wood, bamboo, or metal that is normally made to support and display climbing plants.~~

(Ord. [31-16](#), § 2, 8-1-2016)

Trellis, is a vertical panel of lattice designed to support vine plants.

Truck, is any motor vehicle, other than a pickup truck or light van, designed primarily for the transportation of property or cargo.

~~**TRUCK STOP.** An establishment where the principal use is primarily the refueling and servicing of trucks and tractor-trailer rigs. Such establishments may have restaurants or snack bars and sleeping accommodations for the drivers of such over-the-road equipment and may provide facilities for the repair and maintenance of such equipment.~~

~~**TRUCKING TERMINAL.** An area of building where cargo is stored and where trucks load and unload cargo on a regular basis.~~

~~**UNTREATED SEWAGE.** Sewage other than that discharged from a vessel having sanitation devices installed and operated in compliance with standards and regulations issued pursuant to the Federal Water Pollution Control Act, as amended, or in the absence of such standards and~~

regulations or prior to their effective date, sewage which has not been treated to conform to the applicable specifications of the state.

USE. Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Utility Line, is an underground conduit and related facilities, including pipe or cable, by which a person furnishes material or service.

Utilities, Incidental Activities or Facilities, means the construction or placement of public utilities or other infrastructure on a permanent or temporary basis. Examples of "incidental utility activities" include drainage improvements, stormwater retention or detention features, valves, hydrants, street improvements, temporary boat launches for water quality sampling, extension of water and sewer lines, and small-scale lift stations that are not enclosed in a structure (125 cubic feet or less).

Utilities, Major Public Facilities, is any public service improvement or structure developed by or for a public agency that is not defined as an incidental public facility, including but not limited to electrical substations, sewer and water treatment plants, water reservoirs, trunk lines, regional stormwater detention facilities, new or expanded public buildings designed for human occupancy that increase traffic within a neighborhood, and active park improvements such as ball fields or restroom facilities.

Utilities, Private, means utilities that are not subject to city acceptance for operation or maintenance. For purposes of this code, private utilities include natural gas lines, power lines, telephone lines, cable television lines, and other communication lines, their appurtenances and any component part(s) thereof, and the utility companies' operation, maintenance, repair, and replacement of same.

VARIANCE**Variance.** A departure from the terms of this ordinance pertaining to height, width, depth and area of structures and size of yards, and parking space and sign requirements, where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement of this ordinance would result in unnecessary and undue hardship. (See §§ 4.1.9A. and 5.1.15.)

(Ord. 68-98, 11-30-1998)

VARIETY STORE. A retail store offering a broad mix of generally non-durable goods, notions and sundries, also generally of moderate price. Durable goods (furniture, large appliances and the like) are seldom offered in a variety store.

Vehicle Fueling Station, means any place where motor vehicle fuel is sold and dispensed, accessory activities may include the retail sale of convenience items or a car wash.

Vehicle for Human Habitation, is a house car, camp car, camper, house trailer, or any vehicle by whatever name known, school bus, or other bus designed or adaptable for human habitation, whether such vehicle moves by its own power or by power supplied by a separate vehicle.

Vehicle Repair Service Establishment, is a building or structure used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles.

Vehicle Sales, is the sale of motorized vehicles such as cars, trucks, vans, and motorcycles.

~~**VESSEL**. Any boat, ship or other type of watercraft or contrivance capable of being used for transportation on water or as a floating object.~~

Vested Property Rights, means the right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan or an approved phased development plan for a specified time, regardless of changes in this ordinance.

~~**VETERINARIAN AND ANIMAL CLINIC**. A premises, or portion of a premises, occupied by an establishment in which a person, or persons, practice a vocation or occupation that performs a type of labor, act or work that primarily results in the medicine, dentistry or surgery of animals, and similar veterinary services normally for a fee or charge. **VETERINARIAN AND ANIMAL CLINICS** do not include "Animal Specialty Farms".~~

Vicinity Map, is a drawing or diagram, to the appropriate scale to show the location of the proposed development in relation to abutting properties, major streets, and other known landmarks.

Visibility Triangle, is a triangular area at the intersection of two streets, or a street and a driveway; two sides of which are measured from the point of intersection for a distance specified. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides.

Wall, is an upright structure, with a continuous footer, constructed of building material, such as masonry, wood, or plaster serving to enclose, divide, or protect an area.

~~**WAREHOUSE, PRIVATE**. Indoor terminal facilities operated primarily for a specific commercial establishment or group of establishments in a particular industrial or economic field, such as moving companies, transfer companies, freight delivery, specific retail store storage, or beverage distribution, but not generally accessible to the public.~~

~~**WAREHOUSE, PUBLIC**. Indoor terminal facilities available to the general public at a fee for the dead storage of farm products, furniture and other household goods or commercial or private goods of any nature. (See also **WAREHOUSE**.)~~

Water Frontage Line, means the line at which a waterfront parcel abuts the waterway. If the waterfront parcel has a seawall, the seawall face shall be deemed the water frontage line for the

parcel. For waterfront parcels that have a property line, but no seawall, abutting the waterway, such property line shall be deemed the water frontage line. See Diagram 5.5.4.A.

Waterfront Parcel, means a parcel which abuts a waterbody.

Waterway, is any man-made or natural body of water, including, canals, lakes, and basins, within the City of Cape Coral.

Waterway Access Ratio, means shall be calculated by dividing the waterway access width by the calculated width of the waterway. See 5.5.4.B.

Waterway Center Point (WCP), is a point on the centerline of the canal 40 feet from the water's end. See Diagram 5.5.4.B.

Watercourse, is a channel in which a flow of water occurs either continuously or intermittently in a definite direction. The term applies to either natural or artificially constructed channels.

Watercraft, is a boat, houseboat, canoe, raft, surfboard, or other apparatus designed for use on water, including motors or engines designed to propel such craft or apparatus.

Watercraft, Personal, is a recreational watercraft that a rider sits or stands on rather than inside, as one would a boat.

~~**WATERS OF THIS CITY.** All navigable waters or waters connected thereto within the boundaries of the city.~~

Wetlands, are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes: (a) have a predominance of hydric soils; (b) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (c) under normal circumstances support a prevalence of such vegetation.

Wireless Communication, is the transmission and reception of voice, data or video transmission via radio frequency (RF) signals through electromagnetic energy.

Wireless Communication Facility (WCF), is any cables, wires, lines, wave guides, antennas, and other equipment associated with the transmission or reception of telecommunications installed upon a tower or antenna support structure, including ground-based equipment in direct support of such transmission or reception. However, the term "Wireless communication facility" shall not include amateur radio antennas.

~~**YARD.** The open space surrounding the principal building on any lot, unoccupied and unobstructed by a portion of that building from the ground to the sky except where specifically permitted by this ordinance. **YARDS** are further defined as follows:~~

(a)

FRONT YARD. That portion of the yard extending the full width of the lot and measured between the front lot line and a parallel line tangent to the nearest part of the principal building, which line shall be designated as the front yard line.

(Ord. 15-12, 9-10-2012)

(b)

REAR YARD. That portion of the yard extending the full width of the lot and measured between the rear lot line and parallel line tangent to the nearest part of the principal building.

(c)

SIDE YARDS. Those portions of the yard extending from the front property line to the rear property line and measured between the side lot lines and parallel lines tangent to the nearest parts of the principal building.

Yard, is the open space surrounding the principal building on any lot, unoccupied and unobstructed by a portion of that building from the ground to the sky except where specifically permitted by this ordinance.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

Sections:

- Section 12.1.** Purpose, applicability, and definitions
- Section 12.2.** 2010 Florida Building Code, Building
- Section 12.3.** 2010 Florida Building Code, Existing Building
- Section 12.4.** International Property Maintenance Code, 2012 Edition

Chapter 1. Adoption of codes: Florida Building Code, the National Electrical Code, International Property Maintenance Code, and Engineering Design Standards.

Section 12.1. Purpose, applicability, and definitions.

The following building codes are hereby adopted, incorporated herein by reference as fully as if set out at length herein, and shall govern all construction, erection, alteration, repair, and demolition of all buildings or other structures within the corporate limits of the city; and any appurtenances attached thereto, except those portions of the adopted codes that are hereinafter deleted, modified, or amended:

- A. 2017 Florida Building Code. The family of codes adopted by the Florida Building Commission, except as deleted, modified, or amended as indicated in Sections 11.2 and 11.3., below.
- B. National Electrical Code, 2014 Edition.
- C. International Property Maintenance Code, 2012 Edition, except as deleted, modified, or amended as indicated in Section 11.4., below.
- D. City of Cape Coral Engineering Design Standards, 2002, as amended.

Section 12.2. 2010 Florida Building Code, Building.

Amendments to adopted code. All sections of the 2017 Florida Building Code, Building are in effect except as amended as shown below:

- A. Section 107. Submittal Documents.

107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R, Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to Section 105-14 and Section 107.6. shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.

- B. Section 115. Stop Work Orders.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS

45 115.1 Authority. Whenever the building official finds any work regulated by this code being
46 performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the
47 building official is authorized to issue a stop work order. In addition, the building official is
48 authorized to issue a stop work order for the failure to contain or remove construction refuse as
49 required in the Code of Ordinances, Chapter 9, Health and Sanitation.

50
51 115.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the
52 property involved, to the owner's agent, or to the person doing the work. Upon issuance of a stop
53 work order, all work on the construction site shall immediately cease. The stop work order shall
54 state the reason for the order, and the conditions under which the cited work will be permitted to
55 resume.

56
57 115.3 Unlawful continuance. Any person who shall continue any work after having been served
58 with a stop work order, except such work as that person is directed to perform to remove a
59 violation or unsafe condition, shall be subject to penalties as prescribed by law.

60
61 C. Section 117. Variances in Flood Hazard Areas.

62
63 117.1 Flood hazard areas. Pursuant to F.S. § 553.73, the variance procedures adopted in the City
64 of Cape Coral Floodplain Management Ordinance shall apply to requests submitted to the Building
65 Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or,
66 as applicable, the provisions of R322 of the Florida Building Code, Residential. This section shall
67 not apply to Section 3109 of the Florida Building Code, Building.

68
69 D. Section 612. Flood Loads.

70
71 SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition
72 or improvement of a building or structure taking place during a five-year period, the cumulative
73 cost of which equals or exceeds 50 percent of the market value of the structure before the
74 improvement or repair is started. For each building or structure, the five-year period begins on
75 the date of the first improvement or repair of that building or structure subsequent to August 17,
76 1981. If the structure has sustained substantial damage, any repairs are considered substantial
77 improvement regardless of the actual repair work performed. The term does not, however,
78 include either:

- 79
80 1. Any project for improvement of a building required to correct existing health, sanitary or
81 safety code violations identified by the building official and that are the minimum necessary
82 to assure safe living conditions.
83
84 2. Any alteration of a historic structure provided that the alteration will not preclude the
85 structure's continued designation as a historic structure.

86
87 **Section 12.3 - 2010 Florida Building Code, Existing Building.**
88

89 All sections of 2010 Florida Building Code, Existing Building are in effect except as amended as shown
90 below:

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

91
92 A. Section 202. General Definitions

93
94 SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition
95 or improvement of a building or structure taking place during a five-year period, the cumulative
96 cost of which equals or exceeds 50 percent of the market value of the structure before the
97 improvement or repair is started. For each building or structure, the five-year period begins on
98 the date of the first improvement or repair of that building or structure subsequent to August 17,
99 1981. If the structure has sustained substantial damage, any repairs are considered substantial
100 improvement regardless of the actual repair work performed. The term does not, however,
101 include either:

- 102
103 1. Any project for improvement of a building required to correct existing health, sanitary or
104 safety code violations identified by the building official and that are the minimum necessary
105 to assure safe living conditions.
106
107 2. Any alteration of a historic structure provided that the alteration will not preclude the
108 structure's continued designation as a historic structure.
109

110 **Section 12.4. International Property Maintenance Code, 2012 Edition.**

111
112 The International Property Maintenance Code, 2012 Edition, a copy of which is on file in the City
113 Clerk's office, as published by the International Code Council, Inc., is adopted by reference as if totally
114 copied herein, with revisions to sections as follows:

- 115
116 A. Section 101.1. Insert: City of Cape Coral, Florida.
117
118 B. Section 103.1. Delete the words "department of property maintenance inspection is hereby
119 created", and insert in its place the words "City of Cape Coral Code Enforcement Department
120 has been heretofore created". Further, wherever the words "department of property
121 maintenance inspection" or "code official" may appear, substitute the words "City of Cape
122 Coral Code Enforcement Department" and the words "Code Enforcement Manager, or the
123 Manager's designee", respectively.
124
125 C. Section 103.5. Insert: Fees to be amended, if applicable, at a later date.
126
127 D. Section 106.3. Insert at end of such section: The City of Cape Coral Code Enforcement Department
128 may, in addition or alternatively, to pursuing any such criminal or civil penalties of seeking
129 injunctive relief, bring violations for prosecution before the Code Enforcement Special Magistrate,
130 in accordance with §§ 2-81 through 2-96 of the City of Cape Coral Code of Ordinances.
131
132 E. Section 111. Delete.
133
134 F. Section 302.4. Insert: twelve (12) inches in height.
135
136 G. Section 304.14. Insert: January to December.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

- 137
138 H. Section 602.3. Insert: September to May.
139
140 I. Section 602.4. Insert: September to May.
141
142 J. All references to the building official in the International Property Maintenance Code, 2012
143 Edition, shall be construed as meaning the Department of Community Development Director or
144 the Director's designee. All references in the International Property Maintenance Code, 2012
145 Edition to building, plumbing, mechanical, fuel gas, electric, fire safety or other codes or standards
146 shall be construed to mean the 2010 Florida Building Code, National Electrical Code, 2008 Edition,
147 and the Florida Fire Prevention Code, as applicable.
148
-

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**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

Sections:

- Section 12.1.** Purpose, applicability, and definitions
- Section 12.2.** 2017~~9~~ Florida Building Code, Building
- Section 12.3.** 2017~~9~~ Florida Building Code, Existing Building
- Section 12.4.** International Property Maintenance Code, 2012 Edition

Chapter 1. Adoption of codes: Florida Building Code, the National Electrical Code, International Property Maintenance Code, and Engineering Design Standards.

Section 12.1. Purpose, applicability, and definitions.

The following building codes are hereby adopted, incorporated herein by reference as fully as if set out at length herein, and shall govern all construction, erection, alteration, repair, and demolition of all buildings or other structures within the corporate limits of the city; and any appurtenances attached thereto, except those portions of the adopted codes that are hereinafter deleted, modified, or amended:

- A. 2017 Florida Building Code. The family of codes adopted by the Florida Building Commission, except as deleted, modified, or amended as indicated in Sections ~~112~~.2 and ~~112~~.3., below.
- B. National Electrical Code, 2014 Edition.
- C. International Property Maintenance Code, 2012 Edition, except as deleted, modified, or amended as indicated in Section ~~112~~.4., below.
- D. City of Cape Coral Engineering Design Standards, 2002, as amended.

Section 12.2. 2017~~9~~ Florida Building Code, Building.

Amendments to adopted code. All sections of the 2017 Florida Building Code, Building are in effect except as amended as shown below:

- A. Section 107. Submittal Documents.

107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R, Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to Section 105-14 and Section 107.6. shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.

- B. Section 115. Stop Work Orders.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

45 115.1 Authority. Whenever the building official finds any work regulated by this code being
46 performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the
47 building official is authorized to issue a stop work order. In addition, the building official is
48 authorized to issue a stop work order for the failure to contain or remove construction refuse as
49 required in the Code of Ordinances, Chapter 9, Health and Sanitation.

50
51 115.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the
52 property involved, to the owner's agent, or to the person doing the work. Upon issuance of a stop
53 work order, all work on the construction site shall immediately cease. The stop work order shall
54 state the reason for the order, and the conditions under which the cited work will be permitted to
55 resume.

56
57 115.3 Unlawful continuance. Any person who shall continue any work after having been served
58 with a stop work order, except such work as that person is directed to perform to remove a
59 violation or unsafe condition, shall be subject to penalties as prescribed by law.

60
61 C. Section 117. Variances in Flood Hazard Areas.

62
63 117.1 Flood hazard areas. Pursuant to F.S. § 553.73, the variance procedures adopted in the City
64 of Cape Coral Floodplain Management Ordinance shall apply to requests submitted to the Building
65 Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or,
66 as applicable, the provisions of R322 of the Florida Building Code, Residential. This section shall
67 not apply to Section 3109 of the Florida Building Code, Building.

68
69 D. Section 612. Flood Loads.

70
71 SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition
72 or improvement of a building or structure taking place during a five-year period, the cumulative
73 cost of which equals or exceeds 50 percent of the market value of the structure before the
74 improvement or repair is started. For each building or structure, the five-year period begins on
75 the date of the first improvement or repair of that building or structure subsequent to August 17,
76 1981. If the structure has sustained substantial damage, any repairs are considered substantial
77 improvement regardless of the actual repair work performed. The term does not, however,
78 include either:

- 79
80 1. Any project for improvement of a building required to correct existing health, sanitary or
81 safety code violations identified by the building official and that are the minimum necessary
82 to assure safe living conditions.
83
84 2. Any alteration of a historic structure provided that the alteration will not preclude the
85 structure's continued designation as a historic structure.

86
87 **Section 12.3 - 2010~~7~~ Florida Building Code, Existing Building.**

88
89 All sections of 201~~0~~⁷ Florida Building Code, Existing Building are in effect except as amended as shown
90 below:

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

91
92 A. Section 202. General Definitions

93
94 SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition,
95 or improvement of a building or structure taking place during a five-year period, the cumulative
96 cost of which equals or exceeds 50 percent of the market value of the structure before the
97 improvement or repair is started. For each building or structure, the five-year period begins on
98 the date of the first improvement or repair of that building or structure subsequent to August 17,
99 1981. If the structure has sustained substantial damage, any repairs are considered substantial
100 improvement regardless of the actual repair work performed. The term does not, however,
101 include either:

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103 1. Any project for improvement of a building required to correct existing health, sanitary or
104 safety code violations identified by the building official and that are the minimum necessary
105 to assure safe living conditions.
106
107 2. Any alteration of a historic structure provided that the alteration will not preclude the
108 structure's continued designation as a historic structure.
109

110 **Section 12.4. International Property Maintenance Code, 2012 Edition.**

111
112 The International Property Maintenance Code, 2012 Edition, a copy of which is on file in the City
113 Clerk's office, as published by the International Code Council, Inc., is adopted by reference as if totally
114 copied herein, with revisions to sections as follows:

115
116 A. Section 101.1. Insert: City of Cape Coral, Florida.

117
118 B. Section 103.1. Delete the words "department of property maintenance inspection is hereby
119 created", and insert in its place the words "City of Cape Coral Code Compliance Division
120 Enforcement Department has been heretofore created". Further, wherever the words
121 "department of property maintenance inspection" or "code official" may appear, substitute the
122 words "City of Cape Coral Code Enforcement Department" and the words "Code Enforcement
123 Manager, or the Manager's designee", respectively.
124

125 C. Section 103.5. Insert: Fees to be amended, if applicable, at a later date.

126
127 D. Section 106.3. Insert at end of such section: The City of Cape Coral Code Enforcement Department
128 may, in addition or alternatively, to pursuing any such criminal or civil penalties of seeking
129 injunctive relief, bring violations for prosecution before the Code Enforcement Special Magistrate,
130 in accordance with §§ 2-81 through 2-96 of the City of Cape Coral Code of Ordinances.
131

132 E. Section 111. Delete.

133
134 F. Section 302.4. Insert: twelve (12) inches in height.

135
136 G. Section 304.14. Insert: January to December.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

- 137
138 H. Section 602.3. Insert: September to May.
139
140 I. Section 602.4. Insert: September to May.
141
142 J. All references to the building official in the International Property Maintenance Code, 2012
143 Edition, shall be construed as meaning the Department of Community Development Director or
144 the Director's designee. All references in the International Property Maintenance Code, 2012
145 Edition to building, plumbing, mechanical, fuel gas, electric, fire safety or other codes or standards
146 shall be construed to mean the 2017~~9~~ Florida Building Code, National Electrical Code, 2008
147 Edition, and the Florida Fire Prevention Code, as applicable.
148
-

DRAFT 2-5-18

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

Sections:

- Section 12.1.** Purpose, applicability, and definitions
- Section 12.2.** 2017 Florida Building Code, Building
- Section 12.3.** 2017 Florida Building Code, Existing Building
- Section 12.4.** International Property Maintenance Code, 2012 Edition

Chapter 1. Adoption of codes: Florida Building Code, the National Electrical Code, International Property Maintenance Code, and Engineering Design Standards.

Section 12.1. Purpose, applicability, and definitions.

The following building codes are hereby adopted, incorporated herein by reference as fully as if set out at length herein, and shall govern all construction, erection, alteration, repair, and demolition of all buildings or other structures within the corporate limits of the city; and any appurtenances attached thereto, except those portions of the adopted codes that are hereinafter deleted, modified, or amended:

- A. 2017 Florida Building Code. The family of codes adopted by the Florida Building Commission, except as deleted, modified, or amended as indicated in Sections 12.2 and 12.3., below.
- B. National Electrical Code, 2014 Edition.
- C. International Property Maintenance Code, 2012 Edition, except as deleted, modified, or amended as indicated in Section 12.4., below.
- D. City of Cape Coral Engineering Design Standards, 2002, as amended.

Section 12.2. 2017 Florida Building Code, Building.

Amendments to adopted code. All sections of the 2017 Florida Building Code, Building are in effect except as amended as shown below:

- A. Section 107. Submittal Documents.

107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R, Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to Section 105-14 and Section 107.6. shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.

- B. Section 115. Stop Work Orders.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

45 115.1 Authority. Whenever the building official finds any work regulated by this code being
46 performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the
47 building official is authorized to issue a stop work order. In addition, the building official is
48 authorized to issue a stop work order for the failure to contain or remove construction refuse as
49 required in the Code of Ordinances, Chapter 9, Health and Sanitation.

50
51 115.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the
52 property involved, to the owner's agent, or to the person doing the work. Upon issuance of a stop
53 work order, all work on the construction site shall immediately cease. The stop work order shall
54 state the reason for the order, and the conditions under which the cited work will be permitted to
55 resume.

56
57 115.3 Unlawful continuance. Any person who shall continue any work after having been served
58 with a stop work order, except such work as that person is directed to perform to remove a
59 violation or unsafe condition, shall be subject to penalties as prescribed by law.

60
61 C. Section 117. Variances in Flood Hazard Areas.
62
63 117.1 Flood hazard areas. Pursuant to F.S. § 553.73, the variance procedures adopted in the City
64 of Cape Coral Floodplain Management Ordinance shall apply to requests submitted to the Building
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82 to assure safe living conditions.
83
84 2. Any alteration of a historic structure provided that the alteration will not preclude the
85 structure's continued designation as a historic structure.

86
87 **Section 12.3 - 2017 Florida Building Code, Existing Building.**
88

89 All sections of 2017 Florida Building Code, Existing Building are in effect except as amended as shown
90 below:

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

91
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120 been heretofore created". Further, wherever the words "department of property maintenance
121 inspection" or "code official" may appear, substitute the words "City of Cape Coral Code
122 Enforcement Department" and the words "Code Enforcement Manager, or the Manager's
123 designee", respectively.
124
125 C. Section 103.5. Insert: Fees to be amended, if applicable, at a later date.
126
127 D. Section 106.3. Insert at end of such section: The City of Cape Coral Code Enforcement Department
128 may, in addition or alternatively, to pursuing any such criminal or civil penalties of seeking
129 injunctive relief, bring violations for prosecution before the Code Enforcement Special Magistrate,
130 in accordance with §§ 2-81 through 2-96 of the City of Cape Coral Code of Ordinances.
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132 E. Section 111. Delete.
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134 F. Section 302.4. Insert: twelve (12) inches in height.
135
136 G. Section 304.14. Insert: January to December.

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS**

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138 H. Section 602.3. Insert: September to May.
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142 J. All references to the building official in the International Property Maintenance Code, 2012
143 Edition, shall be construed as meaning the Department of Community Development Director or
144 the Director's designee. All references in the International Property Maintenance Code, 2012
145 Edition to building, plumbing, mechanical, fuel gas, electric, fire safety or other codes or standards
146 shall be construed to mean the 2017 Florida Building Code, National Electrical Code, 2008 Edition,
147 and the Florida Fire Prevention Code, as applicable.
148
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DRAFT 2-5-18

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

Section 13.1.1 Reasonable Accommodations

A. Purpose, Intent, and Applicability

It is the purpose of this chapter to allow for the development of facilities and residences that accommodate persons with disabilities. This Section implements the policy of the City regarding requests for reasonable accommodation to its zoning and land use regulations, rules, ordinances, policies, and procedures for persons with disabilities to use and enjoy housing. as provided by the Federal Fair Housing Act (42 U.S.C. 3601 et seq.) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.) C'ADA").

Any person who is disabled (or qualifying entities) may request reasonable accommodation with respect to the City 's zoning and land use regulations, rules, ordinances, policies, and procedures as provided by the FHA and the ADA pursuant to the procedures set out in this Section. For purposes of this Section, a "qualifying entity" shall mean, a licensed service provider of the state of Florida as defined by Section 397.311, Florida Statutes. All qualifying entities shall submit as part of an application for a reasonable accommodation proof of the licensable service component the qualifying entity holds pursuant to Chapter 397, Florida Statutes.

B. Application Procedures. The following general provisions shall be applicable:

1. The City shall display a notice on the City's webpage (and shall maintain copies available for review in the City Clerk's Office) advising the public that disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.
2. A disabled person may apply for a reasonable accommodation on his or her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated, in writing, by the disabled person.
3. The City shall provide assistance and accommodation as is required pursuant to the FHA and ADA in connection with a disabled person's request for reasonable accommodation, including without limitation, assistance with reading application questions, responding to questions, completing the necessary forms, filing an appeal, and appearing at a hearing to ensure the process is accessible.
4. Reasonable accommodation request form. A request by an applicant for a reasonable accommodation under this Section shall be made in writing by completion of a reasonable accommodation request form and submitted to the Department of Community Development. The reasonable accommodation request form is maintained by the Department of Community Development and shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall, at a minimum. require the following information:
 - a. Name and contact information for applicant;
 - b. Address of housing or other location at which accommodation is requested;

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ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 47
- 48 c. Name and mailing address of subject property owner;
- 49
- 50 d. Description of reasonable accommodation requested;
- 51
- 52 e. Description of the specific regulation(s) or procedure(s) from which accommodation is
- 53 sought;
- 54
- 55 f. Reasons the reasonable accommodation may be necessary for the individual(s) with
- 56 disabilities to use and enjoy the housing or other service;
- 57
- 58 g. Name and contact information for applicant's authorized representative, if applicable; and
- 59
- 60 h. Signature of applicant, or authorized representative.
- 61
- 62 5. Fees. There shall be no fee imposed by the City in connection with a request for reasonable
- 63 accommodation under this Section or an appeal of a determination on such request to the City
- 64 Council, and the City shall have no obligation to pay a requesting party's (or an appealing party,
- 65 as applicable) attorneys' fees or costs in connection with the request, or an appeal
- 66
- 67 C. Medical information confidentiality. Should the information provided by the disabled person to the
- 68 City include medical information or records including records indicating the medical condition,
- 69 diagnosis or medical history of the disabled person, such individual may at the time of submitting such
- 70 medical information, request that the City, to the extent allowed by law, treat such medical
- 71 information as confidential information of the disabled person. The City shall thereafter endeavor to
- 72 provide written notice to the disabled person, or their representative, of any request received by the
- 73 City for disclosure of the medical information or documentation which the disabled person has
- 74 previously requested be treated as confidential by the City. The City will cooperate with the disabled
- 75 person, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure
- 76 of such medical information or documentation, but the City shall have no obligation to initiate,
- 77 prosecute, or pursue any such action, or to incur any legal or other expense (whether by retention of
- 78 outside counsel or allocation of internal resources) in connection therewith, and may comply with any
- 79 judicial order without prior notice to the disabled person.
- 80
- 81 D. Determination process. The City Manager shall have the authority to consider and act on requests for
- 82 reasonable accommodation. When a reasonable accommodation request form has been completed
- 83 and submitted to the Department of Community Development, it shall be referred to the City
- 84 Manager for review and consideration.
- 85
- 86 1. The City Manager shall issue a written determination within 45 days of the date of receipt of a
- 87 completed application, except as provided in paragraph C. below, and may, in accordance with
- 88 federal law; (1) grant the accommodation request, (2) grant a portion of the request and deny a
- 89 portion of the request or impose conditions upon the grant of the request, or (3) deny the request
- 90 in accordance with federal law. If the request is denied, the determination shall state the grounds
- 91 therefore. All written determinations shall give notice of the right to appeal.
- 92

CITY OF CAPE CORAL, FLORIDA
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ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 93 2. The notice of determination shall be sent to the requesting party (i.e., the disabled individual or
94 authorized representative) by certified mail, return receipt requested.
95
- 96 3. If reasonably necessary to reach a determination on the request for reasonable accommodation,
97 the City Manager, may, prior to the end of said 45-day period, request additional information
98 from the requesting party, specifying in detail what information is required. Such additional
99 information may include, additional medical information from the requesting party. The
100 requesting party shall have 15 days after the date of the request for additional information to
101 provide the requested information. In the event a request for additional information is made, the
102 45-day period to issue a written determination shall no longer be applicable, and the City
103 Manager, shall issue a written determination within 30 days after receipt of the additional
104 information. If the requesting party fails to provide the requested additional information within
105 said 15-day period, the City Manager shall issue a written notice advising that the requesting party
106 had failed to timely submit the additional information and therefore the request for reasonable
107 accommodation shall be deemed abandoned or withdrawn and no further action by the City with
108 regard to said reasonable accommodation request shall be required.
109
- 110 E. Criteria for determination. In determining whether the reasonable accommodation request shall be
111 granted or denied, the requesting party shall be required to establish that they are protected under
112 the FHA or ADA by demonstrating that they are handicapped or disabled, as defined in the FHA or
113 ADA. For purposes of this Section, the disabled individual must demonstrate to the City:
114
- 115 1. (i) A physical or mental impairment which (i) substantially limits one or more major life activities; (ii)
116 a record of having such impairment; or (iii) that they are regarded as having such impairment; and
117
- 118 2. That the proposed accommodation being sought is reasonable and necessary to afford
119 handicapped or disabled persons equal opportunity to use and enjoy housing.
120
- 121 F. Required findings. A request for reasonable accommodation pursuant to this Section shall be
122 approved, with or without conditions, if the City Manager finds based upon all of the evidence
123 presented, that all of the following findings are made:
124
- 125 1. The property or dwelling that is the subject of the request for reasonable accommodation will be
126 occupied by a disabled person;
127
- 128 2. The requested accommodation is necessary to provide a disabled person with an equal
129 opportunity to use and enjoy a dwelling;
130
- 131 3. The requested accommodation will not impose an undue financial or administrative burden on
132 the City; and
133
- 134 4. The requested modification will not require a fundamental alteration in the nature of a City
135 program or law.
136
- 137 G. Conditions of approval. In granting a request for reasonable accommodation. the City Manager may
138 impose conditions of approval deemed reasonable and necessary to ensure that the reasonable

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

139 accommodation would comply with the findings of this Section including, but not limited to the
140 following:

- 141
- 142 1. Inspection of the property periodically as specified, to verify compliance with this Section and any
143 conditions of approval.
- 144
- 145 2. Recordation of a deed restriction requiring removal of the improvements when the need for
146 which the accommodation was granted no longer exists, except where the City Manager finds
147 that removal would constitute an unreasonable financial burden or is physically integrated with
148 the structure and cannot feasibly be removed. If applicable, the restrictive covenant shall provide
149 that the reasonable accommodation does not run with the land and shall terminate upon any sale
150 transfer, lease, or other conveyance of the property.
- 151
- 152 3. Time limits or expiration of the approval, if the need for which the accommodation was granted
153 no longer exists.
- 154
- 155 4. Measures to reduce the impact on surrounding uses.
- 156
- 157 5. Measures in consideration of the physical attributes of the property and structures.
- 158
- 159 6. Other conditions necessary to protect the public health, safety, and welfare.
- 160
- 161 H. Appeal of determination. Within 30 days from the date of the City determination on a reasonable
162 accommodation request, or revocation, or modification of a reasonable accommodation, the
163 applicant may appeal the decision. All appeals shall contain a written statement containing sufficient
164 detail of the grounds for the appeal. Appeals pursuant to this Section shall be to the City Council who
165 shall, after public notice and a public hearing, render a written determination as soon as reasonably
166 practicable, but in no event later than 60 days after an appeal has been filed. Notice of any public
167 hearing hereunder shall be provided to the applicant at least 10 days in advance of the public hearing.
- 168
- 169 I. Stay of enforcement. While an application for reasonable accommodation, or appeal or a
170 determination of same, is pending before the City, the City will not enforce the subject zoning
171 ordinance, rules, policies, or procedures against the applicant. However, should the applicant
172 proceed with any property purchase, building, construction, or other work associated with
173 establishing a project or residence housing individuals covered by the FHA or the ADA while an
174 application or appeal for reasonable accommodation is pending, the applicant understands that any
175 of these actions are done at the applicant's own risk because the application or appeal may be denied.
- 176
- 177 J. Revocation of reasonable accommodation. Any reasonable accommodation received shall be subject
178 to revocation or modification if the holder of the reasonable accommodation or the property upon
179 which the accommodation is granted is found in violation of any provision of the written
180 determination granting the reasonable accommodation by a court of law or by the special magistrate
181 hearing code enforcement cases, and the holder of the reasonable accommodation has failed to
182 correct such violation. The City shall send a notice of hearing on a proposed revocation or modification
183 of a reasonable accommodation by certified mail, return receipt requested, to the holder of the
184 reasonable accommodation at least 30 days prior to the date of the hearing. The City Manager shall

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

185 have the authority to consider and act on a revocation or modification of a reasonable
186 accommodation, after notice and hearing during which the reasonable accommodation holder shall
187 have the opportunity to present evidence and be heard.

188
189 **Section 13.2 Dispute Resolution**

190
191 A. Purpose and intent. The purpose of this ordinance is to establish procedures for the initiation,
192 conduct and conclusion of a Special Magistrate proceeding under the Florida Land Use and
193 Environmental Dispute Resolution Act (the "Act) involving a development order or enforcement
194 action by the City of Cape Coral. It is the intent of the City of Cape Coral that the Special Magistrate
195 process be a speedy, inexpensive, and simple method for owners and regulators to settle land use
196 and environmental permitting and enforcement disputes. To that end, owners and regulators should
197 meet face-to-face, in a non-adversarial atmosphere, to resolve disputes without the need for formal
198 representation. Negotiations assisted by a Special Magistrate will enable an owner and regulators to
199 exert more control over their dispute, allowing the parties to shape a resolution rather than having
200 one imposed on them. The Special Magistrate and the parties should exercise maximum flexibility to
201 adapt these procedures to the exigencies of each particular case, consistent with the requirements
202 of state law and due process.

203
204 B. Definitions. For the purpose of this ordinance, the following definitions shall apply; words used in
205 the singular shall include the plural, and the plural, the singular; words used in the present tense
206 shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may"
207 is permissive. Words not defined herein shall be construed to have the meaning given by common
208 and ordinary use as defined in the latest editions of Webster's Dictionary.

209
210 1. CITY. The City of Cape Coral, Florida.

211
212 2. DEVELOPMENT. The meaning given it in F.S. § 380.04, as same may hereafter be amended.

213
214 3. DEVELOPMENT ORDER. Any order which has or will have the effect of granting, denying, or
215 granting with conditions an application for a development permit. This term shall include orders
216 rezoning a specific parcel of land, but shall not include actions on an amendment to the local
217 Comprehensive Plan.

218
219 4. DEVELOPMENT PERMIT.

220
221 a. Any building permit, zoning permit, subdivision approval, certification, special exception,
222 variance, or any other similar action of the city; or

223
224 b. Any other permit authorized to be issued by the city under state law which has the effect of
225 authorizing the development of land, including programs implementing F.S. Chapters 125,
226 161, 163, 166, 187, 258, 372, 373, 378, and 403.

227
228 5. OWNER. A person with a legal or equitable interest in real property who filed an application for
229 a development permit for the real property with the city and who received a development
230 order, or who holds title to real property that is subject to an enforcement action by the city.

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ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

231
232 6. PARTICIPANT.
233

234 a. A person with a legal or equitable interest in land contiguous to the owner's property and
235 who has been accepted by the Special Magistrate as a participant in the proceeding; or
236

237 b. A substantially affected person who submitted oral or written testimony, sworn or unworn, of
238 a substantial nature which stated with particularity support for or objections to the
239 development order or enforcement action in a prior proceeding, including a public hearing, and
240 who has been accepted by the Special Magistrate as a participant in the proceeding.
241

242 7. PARTY or PARTIES. The owner, the city, and any other governmental entity made a party to the
243 proceeding by the Special Magistrate.
244

245 8. PERSON. Individuals, firms, associations, joint ventures, partnerships, estates, trusts, business
246 trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
247

248 9. RIPENESS DECISION. A written decision that describes the use or uses available on the subject
249 real property.
250

251 10. SPECIAL MAGISTRATE PROCEEDING. Any combination of facilitation sessions, formal or informal
252 hearings, of a public nature authorized under the Florida Land Use and Environmental Dispute
253 Resolution Act.
254

255 C. Pre-hearing procedures.
256

257 1. Unless the parties agree in writing to extend the time for performing any act under these
258 guidelines, including the overall 165-day time period, a Special Magistrate proceeding may not
259 continue longer than 165 days from the date the owner files the request for relief.
260

261 2. Any copy which must be furnished to the Special Magistrate, a party or a participant may be
262 sent by regular mail, postage prepaid, or by hand delivery to the recipient's last known address.
263 The burden of proving a copy has been furnished is on the person responsible for furnishing it.
264

265 3. Except for, an owner's request for relief, any document which must be submitted or any copy
266 which must be furnished, may be submitted or furnished by facsimile transmission. Facsimile
267 documents shall be deemed submitted or furnished on the date transmitted as shown on the
268 recipient's copy, if the copy is complete.
269

270 4. Filing means that the signed original must be received by the office that is to receive the
271 document by the date specified. Any document received after 5:00 p.m. shall be deemed filed as
272 of 8:00 a.m. the next regular business day.
273

274 D. Standards of conduct.
275

CITY OF CAPE CORAL, FLORIDA
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ARTICLE 13 - REASONABLE ACCOMMODATION & DISPUTE RESOLUTION

- 276 1. The Special Magistrate holds a position of trust and should adhere to the highest standards of
277 personal integrity, impartiality, and competence. The Special Magistrate should be honest and
278 unbiased, act in good faith, be diligent, and avoid any conflict of interest or the appearance of a
279 conflict of interest. The Special Magistrate should disclose any facts or circumstances that may
280 give rise to justifiable doubts as to impartiality or independence.
- 281
- 282 2. The standards of conduct for parties and participants may be adopted by the City Council by
283 resolution and shall govern the proceedings unless waived or altered in the Special Magistrate
284 contract.

285

286 E. Administrative appeals and judicial review.

- 287
- 288 1. A petition by the owner for judicial review of the development order or enforcement action or a
289 formal administrative hearing pursuant to F.S. §§ 120.569 and 120.57, if applicable, shall waive
290 all rights to a Special Magistrate proceeding.
- 291
- 292 2. A request for relief through a Special Magistrate proceeding shall toll the time for filing a
293 petition for judicial review of the development order or enforcement action, or a formal
294 administrative hearing pursuant to F.S. §§ 120.569 and 120.57, if applicable.
- 295
- 296 3. Invoking the procedures for a Special Magistrate proceeding is not a pre-condition for judicial
297 review of the development order or enforcement action or a formal administrative hearing
298 pursuant to F.S. §§ 120.569 and 120.57.

299

300 F. Pre-initiation meeting. Prior to filing a formal request for relief under this ordinance, the owner may
301 request by letter an informal meeting with the City Manager to discuss alternatives to the filing of
302 the Special Magistrate proceeding. The City Manager shall conduct such a meeting as expeditiously
303 as possible and shall include technical staff familiar with the regulations at issue.

304

305 G. Request for relief. Any owner who believes a development order or an enforcement action by the
306 city is unreasonable or unfairly burdens the use of the owner's real property may file a request for
307 relief in accordance with the requirements of this ordinance. Request for relief forms shall be
308 maintained by the City Department of Community Development and shall be available during
309 business hours to members of the public.

310

311 H. Time for filing. A request for relief must be filed within 30 days after:

- 312
- 313 1. Receipt of the development order or enforcement action; or
- 314
- 315 2. If a city administrative appeal is available in the case of a particular development order or
316 enforcement action, the later of the conclusion of such administrative appeal or the expiration
317 of four months after the initiation of such appeal. Before initiating a Special Magistrate
318 proceeding to review a city development order or enforcement action, the owner must exhaust
319 all nonjudicial city administrative appeals so long as such appeals take no longer than four
320 months. Once nonjudicial local administrative appeals have been exhausted and the
321 development order or enforcement action is final, or, if the owner has pursued administrative

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322 appeals, within four months after issuance of the development order or notice of the
323 enforcement action by the city (even if the appeals have not been concluded), the owner may
324 file a request for relief pursuant to this section.

325
326 I. Requirements. The request for relief must contain the following:

- 327
328 1. A brief statement of the owner's proposed use of the property;
329
330 2. A summary of the development order or description of the enforcement action. In addition, a
331 copy of the development order or documentation of the enforcement action must be attached;
332
333 3. A brief statement of the impact of the development order or enforcement action on the ability
334 of the owner to achieve the proposed use of the property;
335
336 4. The signature of the owner or, if the owner is a corporation, partnership, or other organization,
337 the signature of a responsible official, and the mailing address and telephone number at which
338 the owner may be reached;
339
340 5. A statement regarding whether any local administrative appeal is available and, if so, whether
341 and when it was commenced by the owner and, if completed, the date of completion; and
342
343 6. A certificate of service identifying the persons, if any, who have been furnished with copies of
344 the request for relief.

345
346 J. Filing of request for relief.

- 347
348 1. To initiate a Special Magistrate proceeding, an owner must file a signed original and one copy of
349 a request for relief with the Community Development Department. No fee shall be charged by
350 the city for the filing of a request for relief. However, the owner shall be solely responsible for
351 the cost of preparing the original and one copy of the request for relief.
352
353 2. Within ten days of receipt by the city of the request for relief filed as provided herein, the City
354 shall forward the original request for relief to a Special Magistrate selected in accordance with
355 this ordinance. This time period may be extended only by agreement of the parties.

356
357 K. Notice of filing.

- 358
359 1. Concurrently with the forwarding of the request for relief to the Special Magistrate, the city
360 shall serve, by U.S. Mail or hand delivery, a notice of the filing of the request for relief to the
361 following:
362
363 a. Owners of real property contiguous to the applicant's property at the address shown on the
364 latest Lee County tax roll; and
365
366 b. Any substantially affected person who submitted oral or written testimony of a substantive
367 nature which stated with particularity an objection to or support for any development order

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368 or enforcement action at issue. However, notice under this paragraph is required to be
369 provided to such a substantially affected person only if that person requested in writing or
370 at a public hearing expressed a desire to be placed on a mailing list to receive notice of any
371 subsequent proceeding on the development order or enforcement action at issue. The city
372 shall maintain in its files relating to particular development orders a mailing list of persons
373 who have presented oral or written testimony and who have requested notice.

374
375 2. The notice of the filing of the request for relief need not contain any attachments or supporting
376 documentation which may have accompanied the request for relief. However, in lieu or
377 providing a complete copy of the request for relief, the notice of filing shall contain any
378 information necessary for the recipient to secure a complete copy of the request for relief. The
379 cost of preparing and serving copies of the request for relief on qualifying participants shall be
380 borne equally by the parties.

381
382 3. Any failure to notice potential participants shall be cured by posting of notice of the Special
383 Magistrate proceeding in a location established by the City Council for that purpose.

384
385 L. Special Magistrate.

386
387 1. Qualifications and restrictions. A Special Magistrate need not be a lawyer or a mediator certified
388 by the Florida Supreme Court. However, in order to serve as a Special Magistrate in a
389 proceeding pursuant to this ordinance, a person must:

390
391 a. Be a resident of the State of Florida;

392
393 b. Possess experience and expertise in mediation; and

394
395 c. Possess experience and expertise in at least one of the following disciplines and a working
396 familiarity with the others:

397 i. Land use and environmental permitting;

398 ii. Land planning;

399 iii. Land economics; and

400 iv. Local and state government organization and powers, and the law governing the same.

401
402 2. Special Magistrate selection.

403
404 a. The City Council shall at least annually recruit qualified persons to serve as Special
405 Magistrates and shall, on an annual basis, appoint at least three qualified persons to serve
406 as "pre-approved" Special Magistrates.

407
408 b. The city shall include in the request for relief form provided to the owner a pre-approved list
409 of Special Magistrates and instructions for objecting to any person named on the list.

410
411 c. The parties may mutually agree on a Special Magistrate. In instances in which the city has
412 been joined by a Special Magistrate pursuant to subsection (11) of the Act, the city shall not
413 unreasonably refuse to abide by the choice of a Special Magistrate by the original parties.

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414
415 3. Selection from pre-approved list.

- 416
417 a. The Special Magistrate may be selected from the list(s) of approved Special Magistrates
418 provided with the request for relief form. If an owner objects to any of the Special
419 Magistrates on the list(s), the owner shall state such objection in the owner's request for
420 relief. If an owner does not object to a Special Magistrate in the owner's request for relief,
421 then those Special Magistrates to whom no objection was raised by the owner shall be
422 deemed to be acceptable to the owner. The city shall then select one of the pre-approved
423 Special Magistrates, at random, to be the Special Magistrate to consider the requests for
424 relief.
- 425
426 b. In the event an owner objects to all of the persons on the approved Special Magistrate list,
427 the city shall be allowed additional time to secure a mutually acceptable Special Magistrate.
- 428
429 c. If the parties are unable to agree on the selection of a Special Magistrate, then the following
430 procedure shall apply:
- 431 i. Each party may select one person qualified as a Special Magistrate who, together, shall
432 then select a candidate. If the parties cannot agree on that candidate, the Special
433 Magistrate shall be randomly selected by the Florida Growth Management Conflict
434 Resolution Consortium from a list of qualified candidates maintained by them for that
435 purpose; or
- 436 ii. If the parties prefer not to follow the procedure delineated in subsection (f)(3)c.1.
437 above, then the Special Magistrate shall be randomly selected by the Florida Growth
438 Management Conflict Resolution Consortium from a list of qualified candidates
439 maintained by them for that purpose.

440
441 M. Special Magistrate agreement.

- 442
443 1. Following the selection of a Special Magistrate, the parties shall enter into an agreement with
444 the Special Magistrate which provides for the following:
- 445
446 a. Agreement by the Special Magistrate that he or she would not be called as an expert
447 witness in any related subsequent or concurrent judicial proceeding;
- 448
449 b. Agreement by the parties that the Special Magistrate's recommendation and related
450 materials are inadmissible in any related subsequent or concurrent judicial proceeding
451 except to the extent that a certificate of completion of the process will be available to
452 certify that the Special Magistrate process has been completed;
- 453
454 c. The Special Magistrate may not be called to appear before the City Council or any
455 administrative or judicial tribunal with respect to the written recommendation or any aspect
456 of the proceeding, nor may the Special Magistrate voluntarily furnish notes or other related
457 material;
- 458

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459 d. The Special Magistrate may require in any agreement that the parties, where not otherwise
460 prohibited by law, provide a deposit of funds to secure payment of the Special Magistrate's
461 fees and expenses;

462
463 e. Payment of costs, including, but not limited to the costs of providing notice and effecting
464 service, and payment of fees and expenses for the Special Magistrate;

465
466 f. Establish rules for the conduct of the proceeding, including but not limited to standards of
467 conduct for the Special Magistrate, parties, and participants, and the enforceability of
468 subpoenas in circuit court;

469
470 g. Identify factual issues to be addressed in the proceeding or specify procedures for resolving
471 factual issues, including, but not limited to, stipulation;

472
473 h. Provide for the exchange of information by the parties prior to the mediation or hearing;

474
475 i. Identify participants known to the parties who should be notified of the proceeding;

476
477 j. Provide whether the time for performance of any act is varied; and

478
479 k. Address such other issues as the parties may decide will assist in settlement of the dispute.
480

481 N. Conduct of the Special Magistrate proceeding.

482
483 1. Request to participate in proceedings. Within 21 days after receipt of the request for relief, any
484 owner of land contiguous to the owner's property and any substantially affected person who
485 submitted oral or written testimony, sworn or unsworn, of a substantive nature which stated
486 with particularity objections to or support for the development order or enforcement action at
487 issue may request from the Special Magistrate permission to participate in the proceeding. Such
488 persons may be permitted to participate in the hearing to the extent allowed under the Act.

489
490 2. Filing of response.

491
492 a. No more than 15 days after the filing of a request for relief, the City shall file a response to
493 the request for relief on behalf of the city. A copy shall be furnished to the owner and any
494 person who has requested to participate in the proceeding. The cost of preparing and filing
495 the response to the request for relief shall be borne by the city.

496
497 b. The response to the request for relief shall set forth in reasonable detail the position of the
498 city regarding the matters raised by the owner. The response shall include a brief statement
499 explaining the public purpose of the regulations on which the development order or
500 enforcement action is based.

501
502 3. Sufficiency hearing; request to be dropped as a party.
503

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504 a. The response to the request for relief may include a request that the Special Magistrate
505 dismiss the owner's request for relief for any failure to include the information required in
506 subsection .7 above. The Special Magistrate may conduct a hearing on the issue of such
507 dismissal of the request for relief. If the Special Magistrate dismisses the owner's request for
508 relief, the Special Magistrate shall allow the owner a reasonable time within which to file an
509 amended request for relief. Failure to file an adequate amended request for relief within the
510 time specified by the Special Magistrate shall result in a dismissal with prejudice as to this
511 proceeding.

512
513 b. Any party may request, in its response or otherwise, to be dropped from the proceeding.
514 The request must set forth facts and circumstances to aid the Special Magistrate in deciding
515 the request. The Special Magistrate may conduct a hearing at any time on any request to be
516 dropped as a party. All such requests must be disposed of prior to a hearing on the
517 substance of the owner's request for relief. If the Special Magistrate denies a party's request
518 to be dropped, that party shall participate in the proceeding.

519
520 O. Notice and timing of Special Magistrate proceeding.

521
522 1. As required under the Act, the Special Magistrate shall timely convene a Special Magistrate
523 proceeding on the request for relief.

524
525 2. The Special Magistrate's expenses in providing notice shall be borne equally by the parties unless
526 otherwise established in the Special Magistrate agreement.

527
528 3. Notice to all parties and other persons who have requested such notice shall contain a reference
529 number and date of filing of the request for relief and instructions for obtaining further information
530 regarding the request for relief.

531
532 P. Subpoena powers of the Special Magistrate.

533
534 1. A subpoena issued by a Special Magistrate may require the witness to bring a document or
535 thing.

536
537 2. A party requesting the subpoena of a nonparty witness shall make such request in writing to the
538 Special Magistrate.

539
540 3. The Special Magistrate shall only subpoena a witness that the Special Magistrate believes will
541 aid in the disposition of the matter.

542
543 4. Parties subpoenaing witnesses shall be responsible for paying fees and mileage in the amount as
544 provided under Florida law for witnesses in civil cases.

545
546 5. The Special Magistrate shall provide notice of any witnesses subpoenaed to any party
547 requesting such notice.

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549 6. Service of subpoenas shall be made in the manner provided by the Florida Rules of Civil
550 Procedure.

551
552 7. The witnesses of either party that are present for the hearing or are on standby or available on
553 call are not to be excused by either party without the concurrence of the other party or of the
554 Special Magistrate.

555
556 Q. Special Magistrate proceedings.

557
558 1. Consolidation.

559
560 a. Separate matters which involve similar issues or identical parties may be consolidated if the
561 parties agree and it appears that consolidation would promote the speedy, efficient, and
562 inexpensive resolution of the matters.

563
564 b. If such separate matters are pending before different Special Magistrates, the parties may
565 decide which Special Magistrate will conduct the consolidated proceeding. If the parties
566 cannot agree on one or more Special Magistrates to conduct the proceeding, the
567 proceedings shall not be consolidated.

568
569 2. Conduct of the proceeding.

570
571 a. A party or participant may be represented by an attorney or other person at any phase of
572 the proceeding, but such representation is not required.

573
574 b. At the mediation, each party shall be represented by a person with authority to bind that
575 party to a settlement, or to recommend a settlement directly to the persons with authority
576 to bind the party. The Special Magistrate may ask a representative to provide assurances of
577 such authority.

578
579 3. Order of the proceeding.

580
581 a. In keeping with the overriding intent of the Legislature that the Special Magistrate
582 proceeding be a flexible, problem-solving procedure which results in a voluntary settlement,
583 the Special Magistrate may conduct the phases of the proceeding in any sequence and on
584 separate days.

585
586 b. The proceeding shall be open to the public and shall be held in a location accessible to the
587 public, including the physically handicapped.

588
589 c. The proceeding shall be conducted under the direction and supervision of the Special
590 Magistrate. The Special Magistrate shall determine the order of presentation of issues and
591 information unless otherwise set forth in the Special Magistrate agreement. The Special
592 Magistrate shall decide questions of procedure in a manner which provides reasonable due
593 process.
594

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595 d. Prior to any other portion of the proceeding, the Special Magistrate shall conduct a hearing
596 on any request to dismiss the request for relief.

597
598 e. At any time after commencement of the information-gathering hearing, the Special
599 Magistrate may recess the hearing to recommence mediation and facilitation.

600
601 f. After the hearing, the Special Magistrate may re-convene the parties to present a written
602 recommendation, in draft or final form, and seek to re-commence negotiations.

603
604 4. Mediation phase.

605
606 a. The Special Magistrate's first responsibility is to facilitate a resolution of the dispute and
607 arrive at a settlement acceptable to the parties. It may involve a modification of the owner's
608 proposed use of the property or adjustment in the development order or enforcement
609 action or regulatory efforts by one or more of the governmental parties.

610
611 b. The Special Magistrate shall, among other things, suggest alternatives, analyze issues,
612 question perceptions, use logic, stimulate and facilitate negotiations between the parties,
613 and keep order. The Special Magistrate at all times shall promote conciliation, cooperation,
614 compromise, and settlement of the dispute within the bounds established by law.

615
616 c. As alternatives, if variances, and other types of adjustments to the development order or
617 enforcement action are presented, the Special Magistrate shall afford participants an
618 opportunity to address the impacts of such alternatives on their substantial interests.

619
620 d. At any time after commencement of the presentation of evidence in the hearing, the Special
621 Magistrate may recess the hearing and presentation of evidence to recommence a
622 facilitation session.

623
624 5. Information-gathering hearing.

625
626 a. Within five days of receipt of the request for relief, the Special Magistrate shall provide
627 written notice of the place, date, and time of the hearing to all parties, and to all person
628 who have requested such notice. The hearing must be held within 45 days of the Special
629 Magistrate's receipt of the request for relief. The parties may agree to extend the date for
630 the hearing.

631
632 b. The hearing must be held in the City of Cape Coral. The Special Magistrate's decision on the
633 specific place of the mediation and hearing shall be final.

634
635 c. The Special Magistrate shall hear from anyone with information necessary to understand
636 the matter. The Special Magistrate may question anyone presenting information at the
637 hearing, but will give all parties an opportunity for follow-up questions.

638
639 d. The Special Magistrate shall weigh all information offered at the hearing. Information shall
640 not be subject to the rules of evidence, but the criteria for determining and the

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641 determination of verification and authentication are within the Special Magistrate's
642 discretion.

643
644 e. At any time, the Special Magistrate may require any party to provide additional information
645 in the interest of gaining a complete understanding of the request for relief.

646
647 f. Each party may record the hearing at its own expense. The Special Magistrate may record
648 the hearing to assist in preparing a recommendation as required by § 8.13.11. If the Special
649 Magistrate makes such a recording, it will be forwarded to the city with the
650 recommendation, but will be subject to the restrictions on information contained in §
651 8.13.10H.

652
653 g. Any documents or tangible materials presented to the Special Magistrate at hearing shall be
654 submitted to the Mayor of the Cape Coral City Council with the Special Magistrate's
655 recommendation. Any notes or drafts produced by the Special Magistrate and not intended
656 to record information in a permanent form shall remain the property of the Special
657 Magistrate.

658
659 h. If a party fails to appear at the hearing after notice, the Special Magistrate may proceed
660 without that party or may adjourn the hearing to another day, giving notice to the absent
661 party.

662
663 i. Information may be given and parties, participants, or their representatives may participate
664 by telephone, videotape, or other communications medium unless otherwise agreed in a
665 Special Magistrate agreement.

666
667 6. Witnesses and materials.

668
669 a. Each party must assure attendance at the hearing by those persons qualified by training or
670 experience to address issues raised by the request for relief, by the response, or by the
671 Special Magistrate, or to address alternatives, variances, and other types of modifications to
672 the development order or enforcement action.

673
674 b. The Special Magistrate may issue a subpoena for any nonparty witness in the state who will
675 aid in the disposition of the matter. A subpoena issued by a Special Magistrate may require
676 the witness to bring a specified document or thing.

677
678 c. The Special Magistrate may require and receive documents and other tangible materials
679 from any party or participant. All parties and participants shall have the opportunity to
680 examine and respond to such submissions.

681
682 d. The Special Magistrate may weight the credibility of witnesses.

683
684 e. Although an attorney is not required, any person compelled to appear or furnish documents
685 or tangible materials, or who appears voluntarily, may be represented and advised by legal
686 counsel at his or her own expense.

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687 7. Access to the property.

688
689 a. A request for relief constitutes a consent by the owner for the Special Magistrate and
690 parties or representatives to have reasonable access to the owner's land.

691
692 b. The owner may grant access to the land to participants.

693
694 8. Offer to compromise.

695
696 a. As provided by law:

697
698 i. All actions or statements of the Special Magistrate, the parties, and all participants are
699 evidence of an offer to compromise and are inadmissible in any judicial or
700 administrative proceeding.

701 ii. The proceeding may not be made known by a party or participant to any judicial or
702 administrative tribunal, or be construed for any purpose as an admission against
703 interest.

704
705 b. A party or participant is not bound by anything said or done during the proceeding unless a
706 written settlement is reached, in which case only the terms of the written settlement shall
707 be binding.

708
709 c. The Special Magistrate may not be called to appear before the City Council with respect to
710 any aspect of the proceeding, nor may the Special Magistrate be compelled to furnish notes
711 or drafts.

712
713 R. Settlement.

714
715 1. The owner and the city may enter into a settlement agreement or other agreement as to the
716 permissible use of the owner's land prior to the Special Magistrate filing a recommendation
717 under § 8.13.11.

718
719 2. A settlement agreement or other agreement as to the permissible use of the owner's land may
720 be executed subject to approval by the City Council. Any such agreement will not bind any party
721 until duly approved and executed by all parties to the agreement.

722
723 S. Post-hearing procedures.

724
725 1. Special Magistrate's recommendation.

726
727 a. The Special Magistrate shall file a recommendation with the Mayor within 14 days after the
728 conclusion of the hearing. The Special Magistrate shall also furnish a copy of the
729 recommendation to all parties and participants.

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- 731 b. If a settlement agreement or other agreement as to the permissible use of the owner's land
732 is executed prior to the Special Magistrate's recommendation, the recommendation shall
733 only:
- 734
- 735 i. Set forth the date and location of the hearing;
736 ii. Identify the parties and other participants in attendance at the hearing;
737 iii. Record, without comment, the fact that a settlement agreement or other agreement as
738 to the permissible use of the owner's land has been executed; and
739 iv. Include as an attachment an executed copy of the settlement agreement or other
740 agreement as to the permissible use of the owner's property.
- 741
- 742 c. If a settlement agreement or other agreement as to the permissible use of the owner's land
743 is not executed prior to the filing of the Special Magistrate's recommendation, the Special
744 Magistrate will consider the facts and circumstances set forth in the request for relief, any
745 responses, and any other information produced at the hearing to determine whether the
746 development order or enforcement action, by itself or in conjunction with an action of the
747 city or another governmental entity, is unreasonable or unfairly burdens the owner's land.
748
- 749 d. In making a determination, factors the Special Magistrate may consider include the
750 following:
- 751
- 752 i. The history of the land, including when it was purchased, how much was purchased,
753 where it is located, the nature of the title, the composition of the property, and how it
754 was previously used;
755 ii. The history of development and use of the land, including what was developed and by
756 whom, if it was subdivided and how and to whom it was sold, whether plats were filed
757 or recorded, and whether infrastructure and other public services or improvements may
758 have been dedicated to the public;
759 iii. The history of relevant environmental protection and land use controls and other
760 regulations, including how and whether the land was classified, any uses that may have
761 been proscribed, and what changes in classifications have occurred;
762 iv. The present nature and extent of the land, including natural and altered characteristics;
763 v. The reasonable expectations of the owner at the time of acquisition or immediately
764 prior to the implementation of the regulation at issue, whichever is later, under the
765 regulations then in effect and under common law;
766 vi. The public purpose sought to be achieved by the development order or enforcement
767 action, including the nature and magnitude of the problem addressed by the underlying
768 regulations on which the development order or enforcement action is based; whether
769 the development order or enforcement action is necessary to the achievement of the
770 public purpose; and whether alternative development order or enforcement action
771 conditions would achieve the public purpose and allow for reduced restrictions on the
772 use of the owner's land;
773 vii. Uses authorized for and restrictions placed on similar property, including adjacent lands;
774 and
775

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776 viii. Any other information determined to be relevant by the Special Magistrate or agreed by
777 the parties to be addressed by the Special Magistrate.

778
779 e. The Special Magistrate shall utilize his or her expertise in formulating a recommendation
780 and, in applying this expertise, shall rely upon the sort of information. that a reasonable,
781 prudent person would rely on in the conduct of his or her affairs.

782
783 f. If the Special Magistrate determines the development order or enforcement action, by itself
784 or in conjunction with another action of the city or another governmental entity; is
785 reasonable and does not unfairly burden the owner's land, the Special Magistrate shall
786 recommend that the development order or enforcement action remain undisturbed.

787
788 g. If the Special Magistrate determines the development order or enforcement action, by itself
789 or in conjunction with another action of the city or another governmental entity, is
790 unreasonable or unfairly burdens the owner's property; the Special Magistrate shall
791 recommend one or more alternative actions that protect the public interest served by the
792 regulations at issue but allow for reduced restraints on the use of the owner's real property.
793 The alternatives may include the following:

794
795 i. An adjustment of land development or permit standards or conditions controlling the
796 development or use of the owner's land;

797 ii. Increases or modifications in the density, intensity, or use of areas of development;

798 iii. The transfer of development rights;

799 iv. Land swaps or exchanges;

800 v. Mitigation, including payments in lieu of on-site mitigation;

801 vi. Location of the development or use at issue on the least sensitive portion of the
802 property;

803 vii. Conditioning the amount of development or use permitted on the owner's land;

804 viii. A requirement that issues be addressed on a more comprehensive basis than a single
805 proposed use or development;

806 ix. Issuance of the development order, a variance, special exception, or other extraordinary
807 relief, including withdrawal of the enforcement action;

808 x. Purchase of the owner's land, or an interest in it, by the city or another governmental
809 entity; and

810 xi. If an apportionment of responsibility among governmental entities is necessary, the
811 Special Magistrate shall make such apportionment.

812
813 h. The Special Magistrate shall furnish a copy of the written recommendation to the Florida
814 Department of Legal Affairs.

815
816 i. The Special Magistrate's recommendation is a public record. A copy shall be available for
817 public inspection and copying at the City Clerk's office.

818
819 T. Effect of Special Magistrate's recommendation.

820

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821 1. The Special Magistrate's recommendation is advisory and not binding on the owner or the City
822 Council.

823
824 2. A Special Magistrate's recommendation constitutes data which shall be considered with respect
825 to any pertinent amendment to the Comprehensive Plan.

826
827 3. A Special Magistrate's determination that the development order or enforcement action, by
828 itself or in conjunction with actions of the city or another governmental entity, is unreasonable
829 or unfairly burdens the owner's land may serve as an indication of sufficient hardship to support
830 modifications, variances, or special exception to the application of statutes, rules, regulations, or
831 ordinances to the subject property as otherwise authorized by applicable rules and regulations.

832
833 U. Disposition of Special Magistrate's recommendation.

834
835 1. Within 45 days of receipt of the Special Magistrate's recommendation, the City Council shall:

836
837 a. Accept the recommendation as submitted and implement it in the ordinary course and
838 consistent with all other rules and regulations;

839
840 b. Modify the recommendation as submitted and implement it in the ordinary course and
841 consistent with all other rules and regulations; and

842
843 c. Reject the recommendation as submitted. Failure to act within 45 days of receipt of the
844 recommendation shall be deemed a rejection, unless the owner and the city agree to an
845 extension of time.

846
847 2. If the City Council adopts a recommendation to grant a modification, variance, or special
848 exception to the application of ordinances or regulations as they otherwise would apply to the
849 land, the owner shall not be required to duplicate processes in which the owner previously has
850 participated in order to effectuate the modification, variance, or special exception.

851
852 3. If the Special Magistrate recommends relief or other action in conjunction with another
853 governmental entity, the City Manager and/or his or her designee shall confer with appropriate
854 staff from the other entities to review the recommendation and determine whether a joint staff
855 recommendation can be made to the heads of the respective governmental entities.

856
857 4. Within 15 days after final action on the Special Magistrate's recommendation by the City
858 Council, the City Clerk shall send a copy of the order or other document memorializing final
859 action to the Florida Department of Legal Affairs.

860
861 5. Within ten days of final action on the recommendation, the owner shall notify the City Manager
862 in writing whether the owner accepts the decision on the recommendation.

863
864 6. If the City Council accepts the recommendation or modifies it and the owner rejects the
865 acceptance or modification, or if the City Council rejects the recommendation, the City Council
866 shall issue a written decision that describes as specifically as possible the use or uses available

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on the owner's land. The decision shall be issued within 30 days of final action on the recommendation.

7. After the City Council has acted on the Special Magistrate's recommendation and a written decision has been issued describing the use or uses available on the owner's land, or if the City Council has not acted within 45 days, the owner may seek a formal adjudication on the development order or enforcement action as otherwise authorized by law.

Draft - 2/5/18

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Section 13.1.1 Reasonable Accommodations

A. Purpose, Intent, and Applicability

It is the purpose of this chapter to allow for the development of facilities and residences that accommodate persons with disabilities. This Section implements the policy of the City regarding requests for reasonable accommodation to its zoning and land use regulations, rules, ordinances, policies, and procedures for persons with disabilities to use and enjoy housing. as provided by the Federal Fair Housing Act (42 U.S.C. 3601 et seq.) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.) C'ADA").

Any person who is disabled (or qualifying entities) may request reasonable accommodation with respect to the City 's zoning and land use regulations, rules, ordinances, policies, and procedures as provided by the FHA and the ADA pursuant to the procedures set out in this Section. For purposes of this Section, a "qualifying entity" shall mean, a licensed service provider of the state of Florida as defined by Section 397.311, Florida Statutes. All qualifying entities shall submit as part of an application for a reasonable accommodation proof of the licensable service component the qualifying entity holds pursuant to Chapter 397, Florida Statutes.

B. Application Procedures. The following general provisions shall be applicable:

1. The City shall display a notice on the City's webpage (and shall maintain copies available for review in the City Clerk's Office) advising the public that disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.
2. A disabled person may apply for a reasonable accommodation on his or her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated, in writing, by the disabled person.
3. The City shall provide assistance and accommodation as is required pursuant to the FHA and ADA in connection with a disabled person's request for reasonable accommodation, including without limitation, assistance with reading application questions, responding to questions, completing the necessary forms, filing an appeal, and appearing at a hearing to ensure the process is accessible.
4. Reasonable accommodation request form. A request by an applicant for a reasonable accommodation under this Section shall be made in writing by completion of a reasonable accommodation request form and submitted to the Department of Community Development. The reasonable accommodation request form is maintained by the Department of Community Development and shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall, at a minimum. require the following information:
 - a. Name and contact information for applicant;
 - b. Address of housing or other location at which accommodation is requested;

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- 47
- 48 c. Name and mailing address of subject property owner;
- 49
- 50 d. Description of reasonable accommodation requested;
- 51
- 52 e. Description of the specific regulation(s) or procedure(s) from which accommodation is
- 53 sought;
- 54
- 55 f. Reasons the reasonable accommodation may be necessary for the individual(s) with
- 56 disabilities to use and enjoy the housing or other service;
- 57
- 58 g. Name and contact information for applicant's authorized representative, if applicable; and
- 59
- 60 h. Signature of applicant, or authorized representative.
- 61
- 62 5. Fees. There shall be no fee imposed by the City in connection with a request for reasonable
- 63 accommodation under this Section or an appeal of a determination on such request to the City
- 64 Council, and the City shall have no obligation to pay a requesting party's (or an appealing party,
- 65 as applicable) attorneys' fees or costs in connection with the request, or an appeal
- 66
- 67 C. Medical information confidentiality. Should the information provided by the disabled person to the
- 68 City include medical information or records including records indicating the medical condition,
- 69 diagnosis or medical history of the disabled person, such individual may at the time of submitting such
- 70 medical information, request that the City, to the extent allowed by law, treat such medical
- 71 information as confidential information of the disabled person. The City shall thereafter endeavor to
- 72 provide written notice to the disabled person, or their representative, of any request received by the
- 73 City for disclosure of the medical information or documentation which the disabled person has
- 74 previously requested be treated as confidential by the City. The City will cooperate with the disabled
- 75 person, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure
- 76 of such medical information or documentation, but the City shall have no obligation to initiate,
- 77 prosecute, or pursue any such action, or to incur any legal or other expense (whether by retention of
- 78 outside counsel or allocation of internal resources) in connection therewith, and may comply with any
- 79 judicial order without prior notice to the disabled person.
- 80
- 81 D. Determination process. The City Manager shall have the authority to consider and act on requests for
- 82 reasonable accommodation. When a reasonable accommodation request form has been completed
- 83 and submitted to the Department of Community Development, it shall be referred to the City
- 84 Manager for review and consideration.
- 85
- 86 1. The City Manager shall issue a written determination within 45 days of the date of receipt of a
- 87 completed application, except as provided in paragraph C. below, and may, in accordance with
- 88 federal law; (1) grant the accommodation request, (2) grant a portion of the request and deny a
- 89 portion of the request or impose conditions upon the grant of the request, or (3) deny the request
- 90 in accordance with federal law. If the request is denied, the determination shall state the grounds
- 91 therefore. All written determinations shall give notice of the right to appeal.
- 92

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- 93 2. The notice of determination shall be sent to the requesting party (i.e., the disabled individual or
94 authorized representative) by certified mail, return receipt requested.
95
- 96 3. If reasonably necessary to reach a determination on the request for reasonable accommodation,
97 the City Manager, may, prior to the end of said 45-day period, request additional information
98 from the requesting party, specifying in detail what information is required. Such additional
99 information may include, additional medical information from the requesting party. The
100 requesting party shall have 15 days after the date of the request for additional information to
101 provide the requested information. In the event a request for additional information is made, the
102 45-day period to issue a written determination shall no longer be applicable, and the City
103 Manager, shall issue a written determination within 30 days after receipt of the additional
104 information. If the requesting party fails to provide the requested additional information within
105 said 15-day period, the City Manager shall issue a written notice advising that the requesting party
106 had failed to timely submit the additional information and therefore the request for reasonable
107 accommodation shall be deemed abandoned or withdrawn and no further action by the City with
108 regard to said reasonable accommodation request shall be required.
109
- 110 E. Criteria for determination. In determining whether the reasonable accommodation request shall be
111 granted or denied, the requesting party shall be required to establish that they are protected under
112 the FHA or ADA by demonstrating that they are handicapped or disabled, as defined in the FHA or
113 ADA. For purposes of this Section, the disabled individual must demonstrate to the City:
114
- 115 1. (i) A physical or mental impairment which (i) substantially limits one or more major life activities; (ii)
116 a record of having such impairment; or (iii) that they are regarded as having such impairment; and
117
- 118 2. That the proposed accommodation being sought is reasonable and necessary to afford
119 handicapped or disabled persons equal opportunity to use and enjoy housing.
120
- 121 F. Required findings. A request for reasonable accommodation pursuant to this Section shall be
122 approved, with or without conditions, if the City Manager finds based upon all of the evidence
123 presented, that all of the following findings are made:
124
- 125 1. The property or dwelling that is the subject of the request for reasonable accommodation will be
126 occupied by a disabled person;
127
- 128 2. The requested accommodation is necessary to provide a disabled person with an equal
129 opportunity to use and enjoy a dwelling;
130
- 131 3. The requested accommodation will not impose an undue financial or administrative burden on
132 the City; and
133
- 134 4. The requested modification will not require a fundamental alteration in the nature of a City
135 program or law.
136
- 137 G. Conditions of approval. In granting a request for reasonable accommodation. the City Manager may
138 impose conditions of approval deemed reasonable and necessary to ensure that the reasonable

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139 accommodation would comply with the findings of this Section including, but not limited to the
140 following:

- 141
- 142 1. Inspection of the property periodically as specified, to verify compliance with this Section and any
143 conditions of approval.
- 144
- 145 2. Recordation of a deed restriction requiring removal of the improvements when the need for
146 which the accommodation was granted no longer exists, except where the City Manager finds
147 that removal would constitute an unreasonable financial burden or is physically integrated with
148 the structure and cannot feasibly be removed. If applicable, the restrictive covenant shall provide
149 that the reasonable accommodation does not run with the land and shall terminate upon any sale
150 transfer, lease, or other conveyance of the property.
- 151
- 152 3. Time limits or expiration of the approval, if the need for which the accommodation was granted
153 no longer exists.
- 154
- 155 4. Measures to reduce the impact on surrounding uses.
- 156
- 157 5. Measures in consideration of the physical attributes of the property and structures.
- 158
- 159 6. Other conditions necessary to protect the public health, safety, and welfare.
- 160
- 161 H. Appeal of determination. Within 30 days from the date of the City determination on a reasonable
162 accommodation request, or revocation, or modification of a reasonable accommodation, the
163 applicant may appeal the decision. All appeals shall contain a written statement containing sufficient
164 detail of the grounds for the appeal. Appeals pursuant to this Section shall be to the City Council who
165 shall, after public notice and a public hearing, render a written determination as soon as reasonably
166 practicable, but in no event later than 60 days after an appeal has been filed. Notice of any public
167 hearing hereunder shall be provided to the applicant at least 10 days in advance of the public hearing.
- 168
- 169 I. Stay of enforcement. While an application for reasonable accommodation, or appeal or a
170 determination of same, is pending before the City, the City will not enforce the subject zoning
171 ordinance, rules, policies, or procedures against the applicant. However, should the applicant
172 proceed with any property purchase, building, construction, or other work associated with
173 establishing a project or residence housing individuals covered by the FHA or the ADA while an
174 application or appeal for reasonable accommodation is pending, the applicant understands that any
175 of these actions are done at the applicant's own risk because the application or appeal may be denied.
- 176
- 177 J. Revocation of reasonable accommodation. Any reasonable accommodation received shall be subject
178 to revocation or modification if the holder of the reasonable accommodation or the property upon
179 which the accommodation is granted is found in violation of any provision of the written
180 determination granting the reasonable accommodation by a court of law or by the special magistrate
181 hearing code enforcement cases, and the holder of the reasonable accommodation has failed to
182 correct such violation. The City shall send a notice of hearing on a proposed revocation or modification
183 of a reasonable accommodation by certified mail, return receipt requested, to the holder of the
184 reasonable accommodation at least 30 days prior to the date of the hearing. The City Manager shall

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185 have the authority to consider and act on a revocation or modification of a reasonable
186 accommodation, after notice and hearing during which the reasonable accommodation holder shall
187 have the opportunity to present evidence and be heard.

188
189 **Section 13.2 Dispute Resolution**

190
191 A. Purpose and intent. The purpose of this ordinance is to establish procedures for the initiation,
192 conduct and conclusion of a Special Magistrate proceeding under the Florida Land Use and
193 Environmental Dispute Resolution Act (the "Act) involving a development order or enforcement
194 action by the City of Cape Coral. It is the intent of the City of Cape Coral that the Special Magistrate
195 process be a speedy, inexpensive, and simple method for owners and regulators to settle land use
196 and environmental permitting and enforcement disputes. To that end, owners and regulators should
197 meet face-to-face, in a non-adversarial atmosphere, to resolve disputes without the need for formal
198 representation. Negotiations assisted by a Special Magistrate will enable an owner and regulators to
199 exert more control over their dispute, allowing the parties to shape a resolution rather than having
200 one imposed on them. The Special Magistrate and the parties should exercise maximum flexibility to
201 adapt these procedures to the exigencies of each particular case, consistent with the requirements
202 of state law and due process.

203
204 B. Definitions. For the purpose of this ordinance, the following definitions shall apply; words used in
205 the singular shall include the plural, and the plural, the singular; words used in the present tense
206 shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may"
207 is permissive. Words not defined herein shall be construed to have the meaning given by common
208 and ordinary use as defined in the latest editions of Webster's Dictionary.

209
210 1. CITY. The City of Cape Coral, Florida.

211
212 2. DEVELOPMENT. The meaning given it in F.S. § 380.04, as same may hereafter be amended.

213
214 3. DEVELOPMENT ORDER. Any order which has or will have the effect of granting, denying, or
215 granting with conditions an application for a development permit. This term shall include orders
216 rezoning a specific parcel of land, but shall not include actions on an amendment to the local
217 Comprehensive Plan.

218
219 4. DEVELOPMENT PERMIT.

220
221 a. Any building permit, zoning permit, subdivision approval, certification, special exception,
222 variance, or any other similar action of the city; or

223
224 b. Any other permit authorized to be issued by the city under state law which has the effect of
225 authorizing the development of land, including programs implementing F.S. Chapters 125,
226 161, 163, 166, 187, 258, 372, 373, 378, and 403.

227
228 5. OWNER. A person with a legal or equitable interest in real property who filed an application for
229 a development permit for the real property with the city and who received a development
230 order, or who holds title to real property that is subject to an enforcement action by the city.

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231
232 6. PARTICIPANT.
233

234 a. A person with a legal or equitable interest in land contiguous to the owner's property and
235 who has been accepted by the Special Magistrate as a participant in the proceeding; or
236

237 b. A substantially affected person who submitted oral or written testimony, sworn or unworn, of
238 a substantial nature which stated with particularity support for or objections to the
239 development order or enforcement action in a prior proceeding, including a public hearing, and
240 who has been accepted by the Special Magistrate as a participant in the proceeding.
241

242 7. PARTY or PARTIES. The owner, the city, and any other governmental entity made a party to the
243 proceeding by the Special Magistrate.
244

245 8. PERSON. Individuals, firms, associations, joint ventures, partnerships, estates, trusts, business
246 trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
247

248 9. RIPENESS DECISION. A written decision that describes the use or uses available on the subject
249 real property.
250

251 10. SPECIAL MAGISTRATE PROCEEDING. Any combination of facilitation sessions, formal or informal
252 hearings, of a public nature authorized under the Florida Land Use and Environmental Dispute
253 Resolution Act.
254

255 C. Pre-hearing procedures.
256

257 1. Unless the parties agree in writing to extend the time for performing any act under these
258 guidelines, including the overall 165-day time period, a Special Magistrate proceeding may not
259 continue longer than 165 days from the date the owner files the request for relief.
260

261 2. Any copy which must be furnished to the Special Magistrate, a party or a participant may be
262 sent by regular mail, postage prepaid, or by hand delivery to the recipient's last known address.
263 The burden of proving a copy has been furnished is on the person responsible for furnishing it.
264

265 3. Except for, an owner's request for relief, any document which must be submitted or any copy
266 which must be furnished, may be submitted or furnished by facsimile transmission. Facsimile
267 documents shall be deemed submitted or furnished on the date transmitted as shown on the
268 recipient's copy, if the copy is complete.
269

270 4. Filing means that the signed original must be received by the office that is to receive the
271 document by the date specified. Any document received after 5:00 p.m. shall be deemed filed as
272 of 8:00 a.m. the next regular business day.
273

274 D. Standards of conduct.
275

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276 1. The Special Magistrate holds a position of trust and should adhere to the highest standards of
277 personal integrity, impartiality, and competence. The Special Magistrate should be honest and
278 unbiased, act in good faith, be diligent, and avoid any conflict of interest or the appearance of a
279 conflict of interest. The Special Magistrate should disclose any facts or circumstances that may
280 give rise to justifiable doubts as to impartiality or independence.

281
282 2. The standards of conduct for parties and participants may be adopted by the City Council by
283 resolution and shall govern the proceedings unless waived or altered in the Special Magistrate
284 contract.

285
286 E. Administrative appeals and judicial review.

287
288 1. A petition by the owner for judicial review of the development order or enforcement action or a
289 formal administrative hearing pursuant to F.S. §§ 120.569 and 120.57, if applicable, shall waive
290 all rights to a Special Magistrate proceeding.

291
292 2. A request for relief through a Special Magistrate proceeding shall toll the time for filing a
293 petition for judicial review of the development order or enforcement action, or a formal
294 administrative hearing pursuant to F.S. §§ 120.569 and 120.57, if applicable.

295
296 3. Invoking the procedures for a Special Magistrate proceeding is not a pre-condition for judicial
297 review of the development order or enforcement action or a formal administrative hearing
298 pursuant to F.S. §§ 120.569 and 120.57.

299
300 F. Pre-initiation meeting. Prior to filing a formal request for relief under this ordinance, the owner may
301 request by letter an informal meeting with the City Manager to discuss alternatives to the filing of
302 the Special Magistrate proceeding. The City Manager shall conduct such a meeting as expeditiously
303 as possible and shall include technical staff familiar with the regulations at issue.

304
305 G. Request for relief. Any owner who believes a development order or an enforcement action by the
306 city is unreasonable or unfairly burdens the use of the owner's real property may file a request for
307 relief in accordance with the requirements of this ordinance. Request for relief forms shall be
308 maintained by the City Department of Community Development and shall be available during
309 business hours to members of the public.

310
311 H. Time for filing. A request for relief must be filed within 30 days after:

312
313 1. Receipt of the development order or enforcement action; or

314
315 2. If a city administrative appeal is available in the case of a particular development order or
316 enforcement action, the later of the conclusion of such administrative appeal or the expiration
317 of four months after the initiation of such appeal. Before initiating a Special Magistrate
318 proceeding to review a city development order or enforcement action, the owner must exhaust
319 all nonjudicial city administrative appeals so long as such appeals take no longer than four
320 months. Once nonjudicial local administrative appeals have been exhausted and the
321 development order or enforcement action is final, or, if the owner has pursued administrative

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322 appeals, within four months after issuance of the development order or notice of the
323 enforcement action by the city (even if the appeals have not been concluded), the owner may
324 file a request for relief pursuant to this section.

325
326 I. Requirements. The request for relief must contain the following:

- 327
328 1. A brief statement of the owner's proposed use of the property;
329
330 2. A summary of the development order or description of the enforcement action. In addition, a
331 copy of the development order or documentation of the enforcement action must be attached;
332
333 3. A brief statement of the impact of the development order or enforcement action on the ability
334 of the owner to achieve the proposed use of the property;
335
336 4. The signature of the owner or, if the owner is a corporation, partnership, or other organization,
337 the signature of a responsible official, and the mailing address and telephone number at which
338 the owner may be reached;
339
340 5. A statement regarding whether any local administrative appeal is available and, if so, whether
341 and when it was commenced by the owner and, if completed, the date of completion; and
342
343 6. A certificate of service identifying the persons, if any, who have been furnished with copies of
344 the request for relief.

345
346 J. Filing of request for relief.

- 347
348 1. To initiate a Special Magistrate proceeding, an owner must file a signed original and one copy of
349 a request for relief with the Community Development Department. No fee shall be charged by
350 the city for the filing of a request for relief. However, the owner shall be solely responsible for
351 the cost of preparing the original and one copy of the request for relief.
352
353 2. Within ten days of receipt by the city of the request for relief filed as provided herein, the City
354 shall forward the original request for relief to a Special Magistrate selected in accordance with
355 this ordinance. This time period may be extended only by agreement of the parties.

356
357 K. Notice of filing.

- 358
359 1. Concurrently with the forwarding of the request for relief to the Special Magistrate, the city
360 shall serve, by U.S. Mail or hand delivery, a notice of the filing of the request for relief to the
361 following:
362
363 a. Owners of real property contiguous to the applicant's property at the address shown on the
364 latest Lee County tax roll; and
365
366 b. Any substantially affected person who submitted oral or written testimony of a substantive
367 nature which stated with particularity an objection to or support for any development order

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368 or enforcement action at issue. However, notice under this paragraph is required to be
369 provided to such a substantially affected person only if that person requested in writing or
370 at a public hearing expressed a desire to be placed on a mailing list to receive notice of any
371 subsequent proceeding on the development order or enforcement action at issue. The city
372 shall maintain in its files relating to particular development orders a mailing list of persons
373 who have presented oral or written testimony and who have requested notice.

374
375 2. The notice of the filing of the request for relief need not contain any attachments or supporting
376 documentation which may have accompanied the request for relief. However, in lieu or
377 providing a complete copy of the request for relief, the notice of filing shall contain any
378 information necessary for the recipient to secure a complete copy of the request for relief. The
379 cost of preparing and serving copies of the request for relief on qualifying participants shall be
380 borne equally by the parties.

381
382 3. Any failure to notice potential participants shall be cured by posting of notice of the Special
383 Magistrate proceeding in a location established by the City Council for that purpose.

384
385 L. Special Magistrate.

386
387 1. Qualifications and restrictions. A Special Magistrate need not be a lawyer or a mediator certified
388 by the Florida Supreme Court. However, in order to serve as a Special Magistrate in a
389 proceeding pursuant to this ordinance, a person must:

390
391 a. Be a resident of the State of Florida;

392
393 b. Possess experience and expertise in mediation; and

394
395 c. Possess experience and expertise in at least one of the following disciplines and a working
396 familiarity with the others:

397 i. Land use and environmental permitting;

398 ii. Land planning;

399 iii. Land economics; and

400 iv. Local and state government organization and powers, and the law governing the same.

401
402 2. Special Magistrate selection.

403
404 a. The City Council shall at least annually recruit qualified persons to serve as Special
405 Magistrates and shall, on an annual basis, appoint at least three qualified persons to serve
406 as "pre-approved" Special Magistrates.

407
408 b. The city shall include in the request for relief form provided to the owner a pre-approved list
409 of Special Magistrates and instructions for objecting to any person named on the list.

410
411 c. The parties may mutually agree on a Special Magistrate. In instances in which the city has
412 been joined by a Special Magistrate pursuant to subsection (11) of the Act, the city shall not
413 unreasonably refuse to abide by the choice of a Special Magistrate by the original parties.

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414
415 3. Selection from pre-approved list.

- 416
417 a. The Special Magistrate may be selected from the list(s) of approved Special Magistrates
418 provided with the request for relief form. If an owner objects to any of the Special
419 Magistrates on the list(s), the owner shall state such objection in the owner's request for
420 relief. If an owner does not object to a Special Magistrate in the owner's request for relief,
421 then those Special Magistrates to whom no objection was raised by the owner shall be
422 deemed to be acceptable to the owner. The city shall then select one of the pre-approved
423 Special Magistrates, at random, to be the Special Magistrate to consider the requests for
424 relief.
- 425
- 426 b. In the event an owner objects to all of the persons on the approved Special Magistrate list,
427 the city shall be allowed additional time to secure a mutually acceptable Special Magistrate.
- 428
- 429 c. If the parties are unable to agree on the selection of a Special Magistrate, then the following
430 procedure shall apply:
- 431 i. Each party may select one person qualified as a Special Magistrate who, together, shall
432 then select a candidate. If the parties cannot agree on that candidate, the Special
433 Magistrate shall be randomly selected by the Florida Growth Management Conflict
434 Resolution Consortium from a list of qualified candidates maintained by them for that
435 purpose; or
- 436 ii. If the parties prefer not to follow the procedure delineated in subsection (f)(3)c.1.
437 above, then the Special Magistrate shall be randomly selected by the Florida Growth
438 Management Conflict Resolution Consortium from a list of qualified candidates
439 maintained by them for that purpose.

440

441 M. Special Magistrate agreement.

- 442
- 443 1. Following the selection of a Special Magistrate, the parties shall enter into an agreement with
444 the Special Magistrate which provides for the following:
- 445
- 446 a. Agreement by the Special Magistrate that he or she would not be called as an expert
447 witness in any related subsequent or concurrent judicial proceeding;
- 448
- 449 b. Agreement by the parties that the Special Magistrate's recommendation and related
450 materials are inadmissible in any related subsequent or concurrent judicial proceeding
451 except to the extent that a certificate of completion of the process will be available to
452 certify that the Special Magistrate process has been completed;
- 453
- 454 c. The Special Magistrate may not be called to appear before the City Council or any
455 administrative or judicial tribunal with respect to the written recommendation or any aspect
456 of the proceeding, nor may the Special Magistrate voluntarily furnish notes or other related
457 material;
- 458

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459 d. The Special Magistrate may require in any agreement that the parties, where not otherwise
460 prohibited by law, provide a deposit of funds to secure payment of the Special Magistrate's
461 fees and expenses;

462
463 e. Payment of costs, including, but not limited to the costs of providing notice and effecting
464 service, and payment of fees and expenses for the Special Magistrate;

465
466 f. Establish rules for the conduct of the proceeding, including but not limited to standards of
467 conduct for the Special Magistrate, parties, and participants, and the enforceability of
468 subpoenas in circuit court;

469
470 g. Identify factual issues to be addressed in the proceeding or specify procedures for resolving
471 factual issues, including, but not limited to, stipulation;

472
473 h. Provide for the exchange of information by the parties prior to the mediation or hearing;

474
475 i. Identify participants known to the parties who should be notified of the proceeding;

476
477 j. Provide whether the time for performance of any act is varied; and

478
479 k. Address such other issues as the parties may decide will assist in settlement of the dispute.
480

481 N. Conduct of the Special Magistrate proceeding.

482
483 1. Request to participate in proceedings. Within 21 days after receipt of the request for relief, any
484 owner of land contiguous to the owner's property and any substantially affected person who
485 submitted oral or written testimony, sworn or unsworn, of a substantive nature which stated
486 with particularity objections to or support for the development order or enforcement action at
487 issue may request from the Special Magistrate permission to participate in the proceeding. Such
488 persons may be permitted to participate in the hearing to the extent allowed under the Act.

489
490 2. Filing of response.

491
492 a. No more than 15 days after the filing of a request for relief, the City shall file a response to
493 the request for relief on behalf of the city. A copy shall be furnished to the owner and any
494 person who has requested to participate in the proceeding. The cost of preparing and filing
495 the response to the request for relief shall be borne by the city.

496
497 b. The response to the request for relief shall set forth in reasonable detail the position of the
498 city regarding the matters raised by the owner. The response shall include a brief statement
499 explaining the public purpose of the regulations on which the development order or
500 enforcement action is based.

501
502 3. Sufficiency hearing; request to be dropped as a party.
503

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504 a. The response to the request for relief may include a request that the Special Magistrate
505 dismiss the owner's request for relief for any failure to include the information required in
506 subsection .7 above. The Special Magistrate may conduct a hearing on the issue of such
507 dismissal of the request for relief. If the Special Magistrate dismisses the owner's request for
508 relief, the Special Magistrate shall allow the owner a reasonable time within which to file an
509 amended request for relief. Failure to file an adequate amended request for relief within the
510 time specified by the Special Magistrate shall result in a dismissal with prejudice as to this
511 proceeding.

512
513 b. Any party may request, in its response or otherwise, to be dropped from the proceeding.
514 The request must set forth facts and circumstances to aid the Special Magistrate in deciding
515 the request. The Special Magistrate may conduct a hearing at any time on any request to be
516 dropped as a party. All such requests must be disposed of prior to a hearing on the
517 substance of the owner's request for relief. If the Special Magistrate denies a party's request
518 to be dropped, that party shall participate in the proceeding.

519
520 O. Notice and timing of Special Magistrate proceeding.

521
522 1. As required under the Act, the Special Magistrate shall timely convene a Special Magistrate
523 proceeding on the request for relief.

524
525 2. The Special Magistrate's expenses in providing notice shall be borne equally by the parties unless
526 otherwise established in the Special Magistrate agreement.

527
528 3. Notice to all parties and other persons who have requested such notice shall contain a reference
529 number and date of filing of the request for relief and instructions for obtaining further information
530 regarding the request for relief.

531
532 P. Subpoena powers of the Special Magistrate.

533
534 1. A subpoena issued by a Special Magistrate may require the witness to bring a document or
535 thing.

536
537 2. A party requesting the subpoena of a nonparty witness shall make such request in writing to the
538 Special Magistrate.

539
540 3. The Special Magistrate shall only subpoena a witness that the Special Magistrate believes will
541 aid in the disposition of the matter.

542
543 4. Parties subpoenaing witnesses shall be responsible for paying fees and mileage in the amount as
544 provided under Florida law for witnesses in civil cases.

545
546 5. The Special Magistrate shall provide notice of any witnesses subpoenaed to any party
547 requesting such notice.

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549 6. Service of subpoenas shall be made in the manner provided by the Florida Rules of Civil
550 Procedure.

551
552 7. The witnesses of either party that are present for the hearing or are on standby or available on
553 call are not to be excused by either party without the concurrence of the other party or of the
554 Special Magistrate.

555
556 Q. Special Magistrate proceedings.

557
558 1. Consolidation.

559
560 a. Separate matters which involve similar issues or identical parties may be consolidated if the
561 parties agree and it appears that consolidation would promote the speedy, efficient, and
562 inexpensive resolution of the matters.

563
564 b. If such separate matters are pending before different Special Magistrates, the parties may
565 decide which Special Magistrate will conduct the consolidated proceeding. If the parties
566 cannot agree on one or more Special Magistrates to conduct the proceeding, the
567 proceedings shall not be consolidated.

568
569 2. Conduct of the proceeding.

570
571 a. A party or participant may be represented by an attorney or other person at any phase of
572 the proceeding, but such representation is not required.

573
574 b. At the mediation, each party shall be represented by a person with authority to bind that
575 party to a settlement, or to recommend a settlement directly to the persons with authority
576 to bind the party. The Special Magistrate may ask a representative to provide assurances of
577 such authority.

578
579 3. Order of the proceeding.

580
581 a. In keeping with the overriding intent of the Legislature that the Special Magistrate
582 proceeding be a flexible, problem-solving procedure which results in a voluntary settlement,
583 the Special Magistrate may conduct the phases of the proceeding in any sequence and on
584 separate days.

585
586 b. The proceeding shall be open to the public and shall be held in a location accessible to the
587 public, including the physically handicapped.

588
589 c. The proceeding shall be conducted under the direction and supervision of the Special
590 Magistrate. The Special Magistrate shall determine the order of presentation of issues and
591 information unless otherwise set forth in the Special Magistrate agreement. The Special
592 Magistrate shall decide questions of procedure in a manner which provides reasonable due
593 process.

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595 d. Prior to any other portion of the proceeding, the Special Magistrate shall conduct a hearing
596 on any request to dismiss the request for relief.

597
598 e. At any time after commencement of the information-gathering hearing, the Special
599 Magistrate may recess the hearing to recommence mediation and facilitation.

600
601 f. After the hearing, the Special Magistrate may re-convene the parties to present a written
602 recommendation, in draft or final form, and seek to re-commence negotiations.

603
604 4. Mediation phase.

605
606 a. The Special Magistrate's first responsibility is to facilitate a resolution of the dispute and
607 arrive at a settlement acceptable to the parties. It may involve a modification of the owner's
608 proposed use of the property or adjustment in the development order or enforcement
609 action or regulatory efforts by one or more of the governmental parties.

610
611 b. The Special Magistrate shall, among other things, suggest alternatives, analyze issues,
612 question perceptions, use logic, stimulate and facilitate negotiations between the parties,
613 and keep order. The Special Magistrate at all times shall promote conciliation, cooperation,
614 compromise, and settlement of the dispute within the bounds established by law.

615
616 c. As alternatives, if variances, and other types of adjustments to the development order or
617 enforcement action are presented, the Special Magistrate shall afford participants an
618 opportunity to address the impacts of such alternatives on their substantial interests.

619
620 d. At any time after commencement of the presentation of evidence in the hearing, the Special
621 Magistrate may recess the hearing and presentation of evidence to recommence a
622 facilitation session.

623
624 5. Information-gathering hearing.

625
626 a. Within five days of receipt of the request for relief, the Special Magistrate shall provide
627 written notice of the place, date, and time of the hearing to all parties, and to all person
628 who have requested such notice. The hearing must be held within 45 days of the Special
629 Magistrate's receipt of the request for relief. The parties may agree to extend the date for
630 the hearing.

631
632 b. The hearing must be held in the City of Cape Coral. The Special Magistrate's decision on the
633 specific place of the mediation and hearing shall be final.

634
635 c. The Special Magistrate shall hear from anyone with information necessary to understand
636 the matter. The Special Magistrate may question anyone presenting information at the
637 hearing, but will give all parties an opportunity for follow-up questions.

638
639 d. The Special Magistrate shall weigh all information offered at the hearing. Information shall
640 not be subject to the rules of evidence, but the criteria for determining and the

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641 determination of verification and authentication are within the Special Magistrate's
642 discretion.

643
644 e. At any time, the Special Magistrate may require any party to provide additional information
645 in the interest of gaining a complete understanding of the request for relief.

646
647 f. Each party may record the hearing at its own expense. The Special Magistrate may record
648 the hearing to assist in preparing a recommendation as required by § 8.13.11. If the Special
649 Magistrate makes such a recording, it will be forwarded to the city with the
650 recommendation, but will be subject to the restrictions on information contained in §
651 8.13.10H.

652
653 g. Any documents or tangible materials presented to the Special Magistrate at hearing shall be
654 submitted to the Mayor of the Cape Coral City Council with the Special Magistrate's
655 recommendation. Any notes or drafts produced by the Special Magistrate and not intended
656 to record information in a permanent form shall remain the property of the Special
657 Magistrate.

658
659 h. If a party fails to appear at the hearing after notice, the Special Magistrate may proceed
660 without that party or may adjourn the hearing to another day, giving notice to the absent
661 party.

662
663 i. Information may be given and parties, participants, or their representatives may participate
664 by telephone, videotape, or other communications medium unless otherwise agreed in a
665 Special Magistrate agreement.

666
667 6. Witnesses and materials.

668
669 a. Each party must assure attendance at the hearing by those persons qualified by training or
670 experience to address issues raised by the request for relief, by the response, or by the
671 Special Magistrate, or to address alternatives, variances, and other types of modifications to
672 the development order or enforcement action.

673
674 b. The Special Magistrate may issue a subpoena for any nonparty witness in the state who will
675 aid in the disposition of the matter. A subpoena issued by a Special Magistrate may require
676 the witness to bring a specified document or thing.

677
678 c. The Special Magistrate may require and receive documents and other tangible materials
679 from any party or participant. All parties and participants shall have the opportunity to
680 examine and respond to such submissions.

681
682 d. The Special Magistrate may weight the credibility of witnesses.

683
684 e. Although an attorney is not required, any person compelled to appear or furnish documents
685 or tangible materials, or who appears voluntarily, may be represented and advised by legal
686 counsel at his or her own expense.

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687 7. Access to the property.

688
689 a. A request for relief constitutes a consent by the owner for the Special Magistrate and
690 parties or representatives to have reasonable access to the owner's land.

691
692 b. The owner may grant access to the land to participants.

693
694 8. Offer to compromise.

695
696 a. As provided by law:

697
698 i. All actions or statements of the Special Magistrate, the parties, and all participants are
699 evidence of an offer to compromise and are inadmissible in any judicial or
700 administrative proceeding.

701 ii. The proceeding may not be made known by a party or participant to any judicial or
702 administrative tribunal, or be construed for any purpose as an admission against
703 interest.

704
705 b. A party or participant is not bound by anything said or done during the proceeding unless a
706 written settlement is reached, in which case only the terms of the written settlement shall
707 be binding.

708
709 c. The Special Magistrate may not be called to appear before the City Council with respect to
710 any aspect of the proceeding, nor may the Special Magistrate be compelled to furnish notes
711 or drafts.

712
713 R. Settlement.

714
715 1. The owner and the city may enter into a settlement agreement or other agreement as to the
716 permissible use of the owner's land prior to the Special Magistrate filing a recommendation
717 under § 8.13.11.

718
719 2. A settlement agreement or other agreement as to the permissible use of the owner's land may
720 be executed subject to approval by the City Council. Any such agreement will not bind any party
721 until duly approved and executed by all parties to the agreement.

722
723 S. Post-hearing procedures.

724
725 1. Special Magistrate's recommendation.

726
727 a. The Special Magistrate shall file a recommendation with the Mayor within 14 days after the
728 conclusion of the hearing. The Special Magistrate shall also furnish a copy of the
729 recommendation to all parties and participants.

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- 731 b. If a settlement agreement or other agreement as to the permissible use of the owner's land
732 is executed prior to the Special Magistrate's recommendation, the recommendation shall
733 only:
- 734
- 735 i. Set forth the date and location of the hearing;
736 ii. Identify the parties and other participants in attendance at the hearing;
737 iii. Record, without comment, the fact that a settlement agreement or other agreement as
738 to the permissible use of the owner's land has been executed; and
739 iv. Include as an attachment an executed copy of the settlement agreement or other
740 agreement as to the permissible use of the owner's property.
- 741
- 742 c. If a settlement agreement or other agreement as to the permissible use of the owner's land
743 is not executed prior to the filing of the Special Magistrate's recommendation, the Special
744 Magistrate will consider the facts and circumstances set forth in the request for relief, any
745 responses, and any other information produced at the hearing to determine whether the
746 development order or enforcement action, by itself or in conjunction with an action of the
747 city or another governmental entity, is unreasonable or unfairly burdens the owner's land.
- 748
- 749 d. In making a determination, factors the Special Magistrate may consider include the
750 following:
- 751
- 752 i. The history of the land, including when it was purchased, how much was purchased,
753 where it is located, the nature of the title, the composition of the property, and how it
754 was previously used;
755 ii. The history of development and use of the land, including what was developed and by
756 whom, if it was subdivided and how and to whom it was sold, whether plats were filed
757 or recorded, and whether infrastructure and other public services or improvements may
758 have been dedicated to the public;
759 iii. The history of relevant environmental protection and land use controls and other
760 regulations, including how and whether the land was classified, any uses that may have
761 been proscribed, and what changes in classifications have occurred;
762 iv. The present nature and extent of the land, including natural and altered characteristics;
763 v. The reasonable expectations of the owner at the time of acquisition or immediately
764 prior to the implementation of the regulation at issue, whichever is later, under the
765 regulations then in effect and under common law;
766 vi. The public purpose sought to be achieved by the development order or enforcement
767 action, including the nature and magnitude of the problem addressed by the underlying
768 regulations on which the development order or enforcement action is based; whether
769 the development order or enforcement action is necessary to the achievement of the
770 public purpose; and whether alternative development order or enforcement action
771 conditions would achieve the public purpose and allow for reduced restrictions on the
772 use of the owner's land;
773 vii. Uses authorized for and restrictions placed on similar property, including adjacent lands;
774 and
- 775

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776 viii. Any other information determined to be relevant by the Special Magistrate or agreed by
777 the parties to be addressed by the Special Magistrate.

778
779 e. The Special Magistrate shall utilize his or her expertise in formulating a recommendation
780 and, in applying this expertise, shall rely upon the sort of information. that a reasonable,
781 prudent person would rely on in the conduct of his or her affairs.

782
783 f. If the Special Magistrate determines the development order or enforcement action, by itself
784 or in conjunction with another action of the city or another governmental entity; is
785 reasonable and does not unfairly burden the owner's land, the Special Magistrate shall
786 recommend that the development order or enforcement action remain undisturbed.

787
788 g. If the Special Magistrate determines the development order or enforcement action, by itself
789 or in conjunction with another action of the city or another governmental entity, is
790 unreasonable or unfairly burdens the owner's property; the Special Magistrate shall
791 recommend one or more alternative actions that protect the public interest served by the
792 regulations at issue but allow for reduced restraints on the use of the owner's real property.
793 The alternatives may include the following:

794
795 i. An adjustment of land development or permit standards or conditions controlling the
796 development or use of the owner's land;

797 ii. Increases or modifications in the density, intensity, or use of areas of development;

798 iii. The transfer of development rights;

799 iv. Land swaps or exchanges;

800 v. Mitigation, including payments in lieu of on-site mitigation;

801 vi. Location of the development or use at issue on the least sensitive portion of the
802 property;

803 vii. Conditioning the amount of development or use permitted on the owner's land;

804 viii. A requirement that issues be addressed on a more comprehensive basis than a single
805 proposed use or development;

806 ix. Issuance of the development order, a variance, special exception, or other extraordinary
807 relief, including withdrawal of the enforcement action;

808 x. Purchase of the owner's land, or an interest in it, by the city or another governmental
809 entity; and

810 xi. If an apportionment of responsibility among governmental entities is necessary, the
811 Special Magistrate shall make such apportionment.

812
813 h. The Special Magistrate shall furnish a copy of the written recommendation to the Florida
814 Department of Legal Affairs.

815
816 i. The Special Magistrate's recommendation is a public record. A copy shall be available for
817 public inspection and copying at the City Clerk's office.

818
819 T. Effect of Special Magistrate's recommendation.

820

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821 1. The Special Magistrate's recommendation is advisory and not binding on the owner or the City
822 Council.

823
824 2. A Special Magistrate's recommendation constitutes data which shall be considered with respect
825 to any pertinent amendment to the Comprehensive Plan.

826
827 3. A Special Magistrate's determination that the development order or enforcement action, by
828 itself or in conjunction with actions of the city or another governmental entity, is unreasonable
829 or unfairly burdens the owner's land may serve as an indication of sufficient hardship to support
830 modifications, variances, or special exception to the application of statutes, rules, regulations, or
831 ordinances to the subject property as otherwise authorized by applicable rules and regulations.

832
833 U. Disposition of Special Magistrate's recommendation.

834
835 1. Within 45 days of receipt of the Special Magistrate's recommendation, the City Council shall:

836
837 a. Accept the recommendation as submitted and implement it in the ordinary course and
838 consistent with all other rules and regulations;

839
840 b. Modify the recommendation as submitted and implement it in the ordinary course and
841 consistent with all other rules and regulations; and

842
843 c. Reject the recommendation as submitted. Failure to act within 45 days of receipt of the
844 recommendation shall be deemed a rejection, unless the owner and the city agree to an
845 extension of time.

846
847 2. If the City Council adopts a recommendation to grant a modification, variance, or special
848 exception to the application of ordinances or regulations as they otherwise would apply to the
849 land, the owner shall not be required to duplicate processes in which the owner previously has
850 participated in order to effectuate the modification, variance, or special exception.

851
852 3. If the Special Magistrate recommends relief or other action in conjunction with another
853 governmental entity, the City Manager and/or his or her designee shall confer with appropriate
854 staff from the other entities to review the recommendation and determine whether a joint staff
855 recommendation can be made to the heads of the respective governmental entities.

856
857 4. Within 15 days after final action on the Special Magistrate's recommendation by the City
858 Council, the City Clerk shall send a copy of the order or other document memorializing final
859 action to the Florida Department of Legal Affairs.

860
861 5. Within ten days of final action on the recommendation, the owner shall notify the City Manager
862 in writing whether the owner accepts the decision on the recommendation.

863
864 6. If the City Council accepts the recommendation or modifies it and the owner rejects the
865 acceptance or modification, or if the City Council rejects the recommendation, the City Council
866 shall issue a written decision that describes as specifically as possible the use or uses available

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on the owner's land. The decision shall be issued within 30 days of final action on the recommendation.

7. After the City Council has acted on the Special Magistrate's recommendation and a written decision has been issued describing the use or uses available on the owner's land, or if the City Council has not acted within 45 days, the owner may seek a formal adjudication on the development order or enforcement action as otherwise authorized by law.

Draft - 2/5/18

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Section 13.1.1 Reasonable Accommodations

A. Purpose, Intent, and Applicability

It is the purpose of this chapter to allow for the development of facilities and residences that accommodate persons with disabilities. This Section implements the policy of the City regarding requests for reasonable accommodation to its zoning and land use regulations, rules, ordinances, policies, and procedures for persons with disabilities to use and enjoy housing. as provided by the Federal Fair Housing Act (42 U.S.C. 3601 et seq.) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.) C'ADA").

Any person who is disabled (or qualifying entities) may request reasonable accommodation with respect to the City 's zoning and land use regulations, rules, ordinances, policies, and procedures as provided by the FHA and the ADA pursuant to the procedures set out in this Section. For purposes of this Section, a "qualifying entity" shall mean, a licensed service provider of the state of Florida as defined by Section 397.311, Florida Statutes. All qualifying entities shall submit as part of an application for a reasonable accommodation proof of the licensable service component the qualifying entity holds pursuant to Chapter 397, Florida Statutes.

B. Application Procedures. The following general provisions shall be applicable:

1. The City shall display a notice on the City's webpage (and shall maintain copies available for review in the City Clerk's Office) advising the public that disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.
2. A disabled person may apply for a reasonable accommodation on his or her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated, in writing, by the disabled person.
3. The City shall provide assistance and accommodation as is required pursuant to the FHA and ADA in connection with a disabled person's request for reasonable accommodation, including without limitation, assistance with reading application questions, responding to questions, completing the necessary forms, filing an appeal, and appearing at a hearing to ensure the process is accessible.
4. Reasonable accommodation request form. A request by an applicant for a reasonable accommodation under this Section shall be made in writing by completion of a reasonable accommodation request form and submitted to the Department of Community Development. The reasonable accommodation request form is maintained by the Department of Community Development and shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall, at a minimum. require the following information:
 - a. Name and contact information for applicant;
 - b. Address of housing or other location at which accommodation is requested;

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- 47
- 48 c. Name and mailing address of subject property owner;
- 49
- 50 d. Description of reasonable accommodation requested;
- 51
- 52 e. Description of the specific regulation(s) or procedure(s) from which accommodation is
- 53 sought;
- 54
- 55 f. Reasons the reasonable accommodation may be necessary for the individual(s) with
- 56 disabilities to use and enjoy the housing or other service;
- 57
- 58 g. Name and contact information for applicant's authorized representative, if applicable; and
- 59
- 60 h. Signature of applicant, or authorized representative.
- 61
- 62 5. Fees. There shall be no fee imposed by the City in connection with a request for reasonable
- 63 accommodation under this Section or an appeal of a determination on such request to the City
- 64 Council, and the City shall have no obligation to pay a requesting party's (or an appealing party,
- 65 as applicable) attorneys' fees or costs in connection with the request, or an appeal
- 66
- 67 C. Medical information confidentiality. Should the information provided by the disabled person to the
- 68 City include medical information or records including records indicating the medical condition,
- 69 diagnosis or medical history of the disabled person, such individual may at the time of submitting such
- 70 medical information, request that the City, to the extent allowed by law, treat such medical
- 71 information as confidential information of the disabled person. The City shall thereafter endeavor to
- 72 provide written notice to the disabled person, or their representative, of any request received by the
- 73 City for disclosure of the medical information or documentation which the disabled person has
- 74 previously requested be treated as confidential by the City. The City will cooperate with the disabled
- 75 person, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure
- 76 of such medical information or documentation, but the City shall have no obligation to initiate,
- 77 prosecute, or pursue any such action, or to incur any legal or other expense (whether by retention of
- 78 outside counsel or allocation of internal resources) in connection therewith, and may comply with any
- 79 judicial order without prior notice to the disabled person.
- 80
- 81 D. Determination process. The City Manager shall have the authority to consider and act on requests for
- 82 reasonable accommodation. When a reasonable accommodation request form has been completed
- 83 and submitted to the Department of Community Development, it shall be referred to the City
- 84 Manager for review and consideration.
- 85
- 86 1. The City Manager shall issue a written determination within 45 days of the date of receipt of a
- 87 completed application, except as provided in paragraph C. below, and may, in accordance with
- 88 federal law; (1) grant the accommodation request, (2) grant a portion of the request and deny a
- 89 portion of the request or impose conditions upon the grant of the request, or (3) deny the request
- 90 in accordance with federal law. If the request is denied, the determination shall state the grounds
- 91 therefore. All written determinations shall give notice of the right to appeal.
- 92

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- 93 2. The notice of determination shall be sent to the requesting party (i.e., the disabled individual or
94 authorized representative) by certified mail, return receipt requested.
95
- 96 3. If reasonably necessary to reach a determination on the request for reasonable accommodation,
97 the City Manager, may, prior to the end of said 45-day period, request additional information
98 from the requesting party, specifying in detail what information is required. Such additional
99 information may include, additional medical information from the requesting party. The
100 requesting party shall have 15 days after the date of the request for additional information to
101 provide the requested information. In the event a request for additional information is made, the
102 45-day period to issue a written determination shall no longer be applicable, and the City
103 Manager, shall issue a written determination within 30 days after receipt of the additional
104 information. If the requesting party fails to provide the requested additional information within
105 said 15-day period, the City Manager shall issue a written notice advising that the requesting party
106 had failed to timely submit the additional information and therefore the request for reasonable
107 accommodation shall be deemed abandoned or withdrawn and no further action by the City with
108 regard to said reasonable accommodation request shall be required.
109
- 110 E. Criteria for determination. In determining whether the reasonable accommodation request shall be
111 granted or denied, the requesting party shall be required to establish that they are protected under
112 the FHA or ADA by demonstrating that they are handicapped or disabled, as defined in the FHA or
113 ADA. For purposes of this Section, the disabled individual must demonstrate to the City:
114
- 115 1. (i) A physical or mental impairment which (i) substantially limits one or more major life activities; (ii)
116 a record of having such impairment; or (iii) that they are regarded as having such impairment; and
117
- 118 2. That the proposed accommodation being sought is reasonable and necessary to afford
119 handicapped or disabled persons equal opportunity to use and enjoy housing.
120
- 121 F. Required findings. A request for reasonable accommodation pursuant to this Section shall be
122 approved, with or without conditions, if the City Manager finds based upon all of the evidence
123 presented, that all of the following findings are made:
124
- 125 1. The property or dwelling that is the subject of the request for reasonable accommodation will be
126 occupied by a disabled person;
127
- 128 2. The requested accommodation is necessary to provide a disabled person with an equal
129 opportunity to use and enjoy a dwelling;
130
- 131 3. The requested accommodation will not impose an undue financial or administrative burden on
132 the City; and
133
- 134 4. The requested modification will not require a fundamental alteration in the nature of a City
135 program or law.
136
- 137 G. Conditions of approval. In granting a request for reasonable accommodation. the City Manager may
138 impose conditions of approval deemed reasonable and necessary to ensure that the reasonable

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139 accommodation would comply with the findings of this Section including, but not limited to the
140 following:

- 141
- 142 1. Inspection of the property periodically as specified, to verify compliance with this Section and any
143 conditions of approval.
- 144
- 145 2. Recordation of a deed restriction requiring removal of the improvements when the need for
146 which the accommodation was granted no longer exists, except where the City Manager finds
147 that removal would constitute an unreasonable financial burden or is physically integrated with
148 the structure and cannot feasibly be removed. If applicable, the restrictive covenant shall provide
149 that the reasonable accommodation does not run with the land and shall terminate upon any sale
150 transfer, lease, or other conveyance of the property.
- 151
- 152 3. Time limits or expiration of the approval, if the need for which the accommodation was granted
153 no longer exists.
- 154
- 155 4. Measures to reduce the impact on surrounding uses.
- 156
- 157 5. Measures in consideration of the physical attributes of the property and structures.
- 158
- 159 6. Other conditions necessary to protect the public health, safety, and welfare.
- 160
- 161 H. Appeal of determination. Within 30 days from the date of the City determination on a reasonable
162 accommodation request, or revocation, or modification of a reasonable accommodation, the
163 applicant may appeal the decision. All appeals shall contain a written statement containing sufficient
164 detail of the grounds for the appeal. Appeals pursuant to this Section shall be to the City Council who
165 shall, after public notice and a public hearing, render a written determination as soon as reasonably
166 practicable, but in no event later than 60 days after an appeal has been filed. Notice of any public
167 hearing hereunder shall be provided to the applicant at least 10 days in advance of the public hearing.
- 168
- 169 I. Stay of enforcement. While an application for reasonable accommodation, or appeal or a
170 determination of same, is pending before the City, the City will not enforce the subject zoning
171 ordinance, rules, policies, or procedures against the applicant. However, should the applicant
172 proceed with any property purchase, building, construction, or other work associated with
173 establishing a project or residence housing individuals covered by the FHA or the ADA while an
174 application or appeal for reasonable accommodation is pending, the applicant understands that any
175 of these actions are done at the applicant's own risk because the application or appeal may be denied.
- 176
- 177 J. Revocation of reasonable accommodation. Any reasonable accommodation received shall be subject
178 to revocation or modification if the holder of the reasonable accommodation or the property upon
179 which the accommodation is granted is found in violation of any provision of the written
180 determination granting the reasonable accommodation by a court of law or by the special magistrate
181 hearing code enforcement cases, and the holder of the reasonable accommodation has failed to
182 correct such violation. The City shall send a notice of hearing on a proposed revocation or modification
183 of a reasonable accommodation by certified mail, return receipt requested, to the holder of the
184 reasonable accommodation at least 30 days prior to the date of the hearing. The City Manager shall

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185 have the authority to consider and act on a revocation or modification of a reasonable
186 accommodation, after notice and hearing during which the reasonable accommodation holder shall
187 have the opportunity to present evidence and be heard.
188

189 **Section 13.2 Dispute Resolution**
190

- 191 A. Purpose and intent. The purpose of this ordinance is to establish procedures for the initiation,
192 conduct, and conclusion of a Special Magistrate proceeding under the Florida Land Use and
193 Environmental Dispute Resolution Act (the "Act) involving a development approval (order) or
194 enforcement action by the City of Cape Coral. It is the intent of the City of Cape Coral that the
195 Special Magistrate process be a speedy, inexpensive, and simple method for owners and regulators
196 to settle land use and environmental permitting and enforcement disputes. To that end, owners and
197 regulators should meet face-to-face, in a non-adversarial atmosphere, to resolve disputes without
198 the need for formal representation. Negotiations assisted by a Special Magistrate will enable an
199 owner and regulators to exert more control over their dispute, allowing the parties to shape a
200 resolution rather than having one imposed on them. The Special Magistrate and the parties should
201 exercise maximum flexibility to adapt these procedures to the exigencies of each particular case,
202 consistent with the requirements of state law and due process.
203
- 204 B. Definitions. For the purpose of this ordinance, the following definitions shall apply; words used in
205 the singular shall include the plural, and the plural, the singular; words used in the present tense
206 shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may"
207 is permissive. Words not defined herein shall be construed to have the meaning given by common
208 and ordinary use as defined in the latest editions of Webster's Dictionary.
209
- 210 1. CITY. The City of Cape Coral, Florida.
211
 - 212 2. DEVELOPMENT. The meaning given it in F.S. § 380.04, as same may hereafter be amended.
213
 - 214 3. DEVELOPMENT ORDER. Any order which has or will have the effect of granting, denying, or
215 granting with conditions an application for a development permit. This term shall include orders
216 rezoning a specific parcel of land, but shall not include actions on an amendment to the local
217 Comprehensive Plan.
218
 - 219 4. DEVELOPMENT PERMIT.
220
 - 221 a. Any building permit, zoning permit, subdivision approval, certification, special exception,
222 variance, or any other similar action of the city; or
223
 - 224 b. Any other permit authorized to be issued by the city under state law which has the effect of
225 authorizing the development of land, including programs implementing F.S. Chapters 125,
226 161, 163, 166, 187, 258, 372, 373, 378, and 403.
227
 - 228 5. OWNER. A person with a legal or equitable interest in real property who filed an application for
229 a development permit for the real property with the city and who received a development
230 order, or who holds title to real property that is subject to an enforcement action by the city.

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- 6. PARTICIPANT.
 - a. A person with a legal or equitable interest in land contiguous to the owner's property and who has been accepted by the Special Magistrate as a participant in the proceeding; or
 - b. A substantially affected person who submitted oral or written testimony, sworn or unsworn, of a substantial nature which stated with particularity support for or objections to the development order or enforcement action in a prior proceeding, including a public hearing, and who has been accepted by the Special Magistrate as a participant in the proceeding.
 - 7. PARTY or PARTIES. The owner, the city, and any other governmental entity made a party to the proceeding by the Special Magistrate.
 - 8. PERSON. Individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
 - 9. RIPENESS DECISION. A written decision that describes the use or uses available on the subject real property.
 - 10. SPECIAL MAGISTRATE PROCEEDING. Any combination of facilitation sessions, formal or informal hearings, of a public nature authorized under the Florida Land Use and Environmental Dispute Resolution Act.
- C. Pre-hearing procedures.
- 1. Unless the parties agree in writing to extend the time for performing any act under these guidelines, including the overall 165-day time period, a Special Magistrate proceeding may not continue longer than 165 days from the date the owner files the request for relief.
 - 2. Any copy which must be furnished to the Special Magistrate, a party or a participant may be sent by regular mail, postage prepaid, or by hand delivery to the recipient's last known address. The burden of proving a copy has been furnished is on the person responsible for furnishing it.
 - 3. Except for, an owner's request for relief, any document which must be submitted or any copy which must be furnished, may be submitted or furnished by facsimile transmission. Facsimile documents shall be deemed submitted or furnished on the date transmitted as shown on the recipient's copy, if the copy is complete.
 - 4. Filing means that the signed original must be received by the office that is to receive the document by the date specified. Any document received after 5:00 p.m. shall be deemed filed as of 8:00 a.m. the next regular business day.
- D. Standards of conduct.

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- 276 1. The Special Magistrate holds a position of trust and should adhere to the highest standards of
277 personal integrity, impartiality, and competence. The Special Magistrate should be honest and
278 unbiased, act in good faith, be diligent, and avoid any conflict of interest or the appearance of a
279 conflict of interest. The Special Magistrate should disclose any facts or circumstances that may
280 give rise to justifiable doubts as to impartiality or independence.
281
- 282 2. The standards of conduct for parties and participants may be adopted by the City Council by
283 resolution and shall govern the proceedings unless waived or altered in the Special Magistrate
284 contract.
285
- 286 E. Administrative appeals and judicial review.
287
- 288 1. A petition by the owner for judicial review of the development order or enforcement action or a
289 formal administrative hearing pursuant to F.S. §§ 120.569 and 120.57, if applicable, shall waive
290 all rights to a Special Magistrate proceeding.
291
- 292 2. A request for relief through a Special Magistrate proceeding shall toll the time for filing a
293 petition for judicial review of the development order or enforcement action, or a formal
294 administrative hearing pursuant to F.S. §§ 120.569 and 120.57, if applicable.
295
- 296 3. Invoking the procedures for a Special Magistrate proceeding is not a pre-condition for judicial
297 review of the development order or enforcement action or a formal administrative hearing
298 pursuant to F.S. §§ 120.569 and 120.57.
299
- 300 F. Pre-initiation meeting. Prior to filing a formal request for relief under this ordinance, the owner may
301 request by letter an informal meeting with the City Manager to discuss alternatives to the filing of
302 the Special Magistrate proceeding. The City Manager shall conduct such a meeting as expeditiously
303 as possible and shall include technical staff familiar with the regulations at issue.
304
- 305 G. Request for relief. Any owner who believes a development order or an enforcement action by the
306 city is unreasonable or unfairly burdens the use of the owner's real property may file a request for
307 relief in accordance with the requirements of this ordinance. Request for relief forms shall be
308 maintained by the City Department of Community Development and shall be available during
309 business hours to members of the public.
310
- 311 H. Time for filing. A request for relief must be filed within 30 days after:
312
- 313 1. Receipt of the development order or enforcement action; or
314
- 315 2. If a city administrative appeal is available in the case of a particular development order or
316 enforcement action, the later of the conclusion of such administrative appeal or the expiration
317 of four months after the initiation of such appeal. Before initiating a Special Magistrate
318 proceeding to review a city development order or enforcement action, the owner must exhaust
319 all nonjudicial city administrative appeals so long as such appeals take no longer than four
320 months. Once nonjudicial local administrative appeals have been exhausted and the
321 development order or enforcement action is final, or, if the owner has pursued administrative

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322 appeals, within four months after issuance of the development order or notice of the
323 enforcement action by the city (even if the appeals have not been concluded), the owner may
324 file a request for relief pursuant to this section.
325

326 I. Requirements. The request for relief must contain the following:

- 327
- 328 1. A brief statement of the owner's proposed use of the property;
- 329
- 330 2. A summary of the development order or description of the enforcement action. In addition, a
331 copy of the development order or documentation of the enforcement action must be attached;
332
- 333 3. A brief statement of the impact of the development order or enforcement action on the ability
334 of the owner to achieve the proposed use of the property;
- 335
- 336 4. The signature of the owner or, if the owner is a corporation, partnership, or other organization,
337 the signature of a responsible official, and the mailing address and telephone number at which
338 the owner may be reached;
- 339
- 340 5. A statement regarding whether any local administrative appeal is available and, if so, whether
341 and when it was commenced by the owner and, if completed, the date of completion; and
342
- 343 6. A certificate of service identifying the persons, if any, who have been furnished with copies of
344 the request for relief.

345

346 J. Filing of request for relief.

- 347
- 348 1. To initiate a Special Magistrate proceeding, an owner must file a signed original and one copy of
349 a request for relief with the Community Development Department. No fee shall be charged by
350 the city for the filing of a request for relief. However, the owner shall be solely responsible for
351 the cost of preparing the original and one copy of the request for relief.
352
- 353 2. Within ten days of receipt by the city of the request for relief filed as provided herein, the City
354 shall forward the original request for relief to a Special Magistrate selected in accordance with
355 this ordinance. This time period may be extended only by agreement of the parties.
356

357 K. Notice of filing.

- 358
- 359 1. Concurrently with the forwarding of the request for relief to the Special Magistrate, the city
360 shall serve, by U.S. Mail or hand delivery, a notice of the filing of the request for relief to the
361 following:
362
 - 363 a. Owners of real property contiguous to the applicant's property at the address shown on the
364 latest Lee County tax roll; and
 - 365
 - 366 b. Any substantially affected person who submitted oral or written testimony of a substantive
367 nature which stated with particularity an objection to or support for any development order

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368 or enforcement action at issue. However, notice under this paragraph is required to be
369 provided to such a substantially affected person only if that person requested in writing or
370 at a public hearing expressed a desire to be placed on a mailing list to receive notice of any
371 subsequent proceeding on the development order or enforcement action at issue. The city
372 shall maintain in its files relating to particular development orders a mailing list of persons
373 who have presented oral or written testimony and who have requested notice.
374

- 375 2. The notice of the filing of the request for relief need not contain any attachments or supporting
376 documentation which may have accompanied the request for relief. However, in lieu of
377 providing a complete copy of the request for relief, the notice of filing shall contain any
378 information necessary for the recipient to secure a complete copy of the request for relief. The
379 cost of preparing and serving copies of the request for relief on qualifying participants shall be
380 borne equally by the parties.
381
- 382 3. Any failure to notice potential participants shall be cured by posting of notice of the Special
383 Magistrate proceeding in a location established by the City Council for that purpose.
384

385 L. Special Magistrate.
386

- 387 1. Qualifications and restrictions. A Special Magistrate need not be a lawyer or a mediator certified
388 by the Florida Supreme Court. However, in order to serve as a Special Magistrate in a
389 proceeding pursuant to this ordinance, a person must:
390
- 391 a. Be a resident of the State of Florida;
 - 392 b. Possess experience and expertise in mediation; and
 - 393 c. Possess experience and expertise in at least one of the following disciplines and a working
394 familiarity with the others:
 - 395 i. Land use and environmental permitting;
 - 396 ii. Land planning;
 - 397 iii. Land economics; and
 - 398 iv. Local and state government organization and powers, and the law governing the same.

400 2. Special Magistrate selection.
401

- 402 a. The City Council shall at least annually recruit qualified persons to serve as Special
403 Magistrates and shall, on an annual basis, appoint at least three qualified persons to serve
404 as "pre-approved" Special Magistrates.
405
- 406 b. The city shall include in the request for relief form provided to the owner a pre-approved list
407 of Special Magistrates and instructions for objecting to any person named on the list.
408
- 409 c. The parties may mutually agree on a Special Magistrate. In instances in which the city has
410 been joined by a Special Magistrate pursuant to subsection (11) of the Act, the city shall not
411 unreasonably refuse to abide by the choice of a Special Magistrate by the original parties.
412
413

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3. Selection from pre-approved list.

- a. The Special Magistrate may be selected from the list(s) of approved Special Magistrates provided with the request for relief form. If an owner objects to any of the Special Magistrates on the list(s), the owner shall state such objection in the owner's request for relief. If an owner does not object to a Special Magistrate in the owner's request for relief, then those Special Magistrates to whom no objection was raised by the owner shall be deemed to be acceptable to the owner. The city shall then select one of the pre-approved Special Magistrates, at random, to be the Special Magistrate to consider the requests for relief.
- b. In the event an owner objects to all of the persons on the approved Special Magistrate list, the city shall be allowed additional time to secure a mutually acceptable Special Magistrate.
- c. If the parties are unable to agree on the selection of a Special Magistrate, then the following procedure shall apply:
 - i. Each party may select one person qualified as a Special Magistrate who, together, shall then select a candidate. If the parties cannot agree on that candidate, the Special Magistrate shall be randomly selected by the Florida Growth Management Conflict Resolution Consortium from a list of qualified candidates maintained by them for that purpose; or
 - ii. If the parties prefer not to follow the procedure delineated in subsection (f)(3)c.1. above, then the Special Magistrate shall be randomly selected by the Florida Growth Management Conflict Resolution Consortium from a list of qualified candidates maintained by them for that purpose.

M. Special Magistrate agreement.

- 1. Following the selection of a Special Magistrate, the parties shall enter into an agreement with the Special Magistrate which provides for the following:
 - a. Agreement by the Special Magistrate that he or she would not be called as an expert witness in any related subsequent or concurrent judicial proceeding;
 - b. Agreement by the parties that the Special Magistrate's recommendation and related materials are inadmissible in any related subsequent or concurrent judicial proceeding except to the extent that a certificate of completion of the process will be available to certify that the Special Magistrate process has been completed;
 - c. The Special Magistrate may not be called to appear before the City Council or any administrative or judicial tribunal with respect to the written recommendation or any aspect of the proceeding, nor may the Special Magistrate voluntarily furnish notes or other related material;

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- 459 d. The Special Magistrate may require in any agreement that the parties, where not otherwise
460 prohibited by law, provide a deposit of funds to secure payment of the Special Magistrate's
461 fees and expenses;
462
- 463 e. Payment of costs, including, but not limited to the costs of providing notice and effecting
464 service, and payment of fees and expenses for the Special Magistrate;
465
- 466 f. Establish rules for the conduct of the proceeding, including but not limited to standards of
467 conduct for the Special Magistrate, parties, and participants, and the enforceability of
468 subpoenas in circuit court;
469
- 470 g. Identify factual issues to be addressed in the proceeding or specify procedures for resolving
471 factual issues, including, but not limited to, stipulation;
472
- 473 h. Provide for the exchange of information by the parties prior to the mediation or hearing;
474
- 475 i. Identify participants known to the parties who should be notified of the proceeding;
476
- 477 j. Provide whether the time for performance of any act is varied; and
478
- 479 k. Address such other issues as the parties may decide will assist in settlement of the dispute.
480
- 481 N. Conduct of the Special Magistrate proceeding.
482
- 483 1. Request to participate in proceedings. Within 21 days after receipt of the request for relief, any
484 owner of land contiguous to the owner's property and any substantially affected person who
485 submitted oral or written testimony, sworn or unsworn, of a substantive nature which stated
486 with particularity objections to or support for the development order or enforcement action at
487 issue may request from the Special Magistrate permission to participate in the proceeding. Such
488 persons may be permitted to participate in the hearing to the extent allowed under the Act.
489
- 490 2. Filing of response.
491
- 492 a. No more than 15 days after the filing of a request for relief, the City shall file a response to
493 the request for relief on behalf of the city. A copy shall be furnished to the owner and any
494 person who has requested to participate in the proceeding. The cost of preparing and filing
495 the response to the request for relief shall be borne by the city.
496
- 497 b. The response to the request for relief shall set forth in reasonable detail the position of the
498 city regarding the matters raised by the owner. The response shall include a brief statement
499 explaining the public purpose of the regulations on which the development order or
500 enforcement action is based.
501
- 502 3. Sufficiency hearing; request to be dropped as a party.
503

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- 504 a. The response to the request for relief may include a request that the Special Magistrate
505 dismiss the owner's request for relief for any failure to include the information required in
506 subsection .7 above. The Special Magistrate may conduct a hearing on the issue of such
507 dismissal of the request for relief. If the Special Magistrate dismisses the owner's request for
508 relief, the Special Magistrate shall allow the owner a reasonable time within which to file an
509 amended request for relief. Failure to file an adequate amended request for relief within the
510 time specified by the Special Magistrate shall result in a dismissal with prejudice as to this
511 proceeding.
512
- 513 b. Any party may request, in its response or otherwise, to be dropped from the proceeding.
514 The request must set forth facts and circumstances to aid the Special Magistrate in deciding
515 the request. The Special Magistrate may conduct a hearing at any time on any request to be
516 dropped as a party. All such requests must be disposed of prior to a hearing on the
517 substance of the owner's request for relief. If the Special Magistrate denies a party's request
518 to be dropped, that party shall participate in the proceeding.
519
- 520 O. Notice and timing of Special Magistrate proceeding.
521
- 522 1. As required under the Act, the Special Magistrate shall timely convene a Special Magistrate
523 proceeding on the request for relief.
524
- 525 2. The Special Magistrate's expenses in providing notice shall be borne equally by the parties
526 unless otherwise established in the Special Magistrate agreement.
527
- 528 3. Notice to all parties and other persons who have requested such notice shall contain a reference
529 number and date of filing of the request for relief and instructions for obtaining further
530 information regarding the request for relief.
531
- 532 P. Subpoena powers of the Special Magistrate.
533
- 534 1. A subpoena issued by a Special Magistrate may require the witness to bring a document or
535 thing.
536
- 537 2. A party requesting the subpoena of a nonparty witness shall make such request in writing to the
538 Special Magistrate.
539
- 540 3. The Special Magistrate shall only subpoena a witness that the Special Magistrate believes will
541 aid in the disposition of the matter.
542
- 543 4. Parties subpoenaing witnesses shall be responsible for paying fees and mileage in the amount as
544 provided under Florida law for witnesses in civil cases.
545
- 546 5. The Special Magistrate shall provide notice of any witnesses subpoenaed to any party
547 requesting such notice.
548

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- 549 6. Service of subpoenas shall be made in the manner provided by the Florida Rules of Civil
550 Procedure.
551
- 552 7. The witnesses of either party that are present for the hearing or are on standby or available on
553 call are not to be excused by either party without the concurrence of the other party or of the
554 Special Magistrate.
555
- 556 Q. Special Magistrate proceedings.
557
- 558 1. Consolidation.
559
- 560 a. Separate matters which involve similar issues or identical parties may be consolidated if the
561 parties agree and it appears that consolidation would promote the speedy, efficient, and
562 inexpensive resolution of the matters.
563
- 564 b. If such separate matters are pending before different Special Magistrates, the parties may
565 decide which Special Magistrate will conduct the consolidated proceeding. If the parties
566 cannot agree on one or more Special Magistrates to conduct the proceeding, the
567 proceedings shall not be consolidated.
568
- 569 2. Conduct of the proceeding.
570
- 571 a. A party or participant may be represented by an attorney or other person at any phase of
572 the proceeding, but such representation is not required.
573
- 574 b. At the mediation, each party shall be represented by a person with authority to bind that
575 party to a settlement, or to recommend a settlement directly to the persons with authority
576 to bind the party. The Special Magistrate may ask a representative to provide assurances of
577 such authority.
578
- 579 3. Order of the proceeding.
580
- 581 a. In keeping with the overriding intent of the Legislature that the Special Magistrate
582 proceeding be a flexible, problem-solving procedure which results in a voluntary settlement,
583 the Special Magistrate may conduct the phases of the proceeding in any sequence and on
584 separate days.
585
- 586 b. The proceeding shall be open to the public and shall be held in a location accessible to the
587 public, including the physically handicapped.
588
- 589 c. The proceeding shall be conducted under the direction and supervision of the Special
590 Magistrate. The Special Magistrate shall determine the order of presentation of issues and
591 information unless otherwise set forth in the Special Magistrate agreement. The Special
592 Magistrate shall decide questions of procedure in a manner which provides reasonable due
593 process.
594

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- 595 d. Prior to any other portion of the proceeding, the Special Magistrate shall conduct a hearing
596 on any request to dismiss the request for relief.
597
- 598 e. At any time after commencement of the information-gathering hearing, the Special
599 Magistrate may recess the hearing to recommence mediation and facilitation.
600
- 601 f. After the hearing, the Special Magistrate may re-convene the parties to present a written
602 recommendation, in draft or final form, and seek to re-commence negotiations.
603
- 604 4. Mediation phase.
605
- 606 a. The Special Magistrate's first responsibility is to facilitate a resolution of the dispute and
607 arrive at a settlement acceptable to the parties. It may involve a modification of the owner's
608 proposed use of the property or adjustment in the development order or enforcement
609 action or regulatory efforts by one or more of the governmental parties.
610
- 611 b. The Special Magistrate shall, among other things, suggest alternatives, analyze issues,
612 question perceptions, use logic, stimulate and facilitate negotiations between the parties,
613 and keep order. The Special Magistrate at all times shall promote conciliation, cooperation,
614 compromise, and settlement of the dispute within the bounds established by law.
615
- 616 c. As alternatives, if variances, and other types of adjustments to the development order or
617 enforcement action are presented, the Special Magistrate shall afford participants an
618 opportunity to address the impacts of such alternatives on their substantial interests.
619
- 620 d. At any time after commencement of the presentation of evidence in the hearing, the Special
621 Magistrate may recess the hearing and presentation of evidence to recommence a
622 facilitation session.
623
- 624 5. Information-gathering hearing.
625
- 626 a. Within five days of receipt of the request for relief, the Special Magistrate shall provide
627 written notice of the place, date, and time of the hearing to all parties, and to all person
628 who have requested such notice. The hearing must be held within 45 days of the Special
629 Magistrate's receipt of the request for relief. The parties may agree to extend the date for
630 the hearing.
631
- 632 b. The hearing must be held in the City of Cape Coral. The Special Magistrate's decision on the
633 specific place of the mediation and hearing shall be final.
634
- 635 c. The Special Magistrate shall hear from anyone with information necessary to understand
636 the matter. The Special Magistrate may question anyone presenting information at the
637 hearing, but will give all parties an opportunity for follow-up questions.
638
- 639 d. The Special Magistrate shall weigh all information offered at the hearing. Information shall
640 not be subject to the rules of evidence, but the criteria for determining and the

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- 641 determination of verification and authentication are within the Special Magistrate's
642 discretion.
- 643
- 644 e. At any time, the Special Magistrate may require any party to provide additional information
645 in the interest of gaining a complete understanding of the request for relief.
- 646
- 647 f. Each party may record the hearing at its own expense. The Special Magistrate may record
648 the hearing to assist in preparing a recommendation as required by § 8.13.11. If the Special
649 Magistrate makes such a recording, it will be forwarded to the city with the
650 recommendation, but will be subject to the restrictions on information contained in §
651 8.13.10H.
- 652
- 653 g. Any documents or tangible materials presented to the Special Magistrate at hearing shall be
654 submitted to the Mayor of the Cape Coral City Council with the Special Magistrate's
655 recommendation. Any notes or drafts produced by the Special Magistrate and not intended
656 to record information in a permanent form shall remain the property of the Special
657 Magistrate.
- 658
- 659 h. If a party fails to appear at the hearing after notice, the Special Magistrate may proceed
660 without that party or may adjourn the hearing to another day, giving notice to the absent
661 party.
- 662
- 663 i. Information may be given and parties, participants, or their representatives may participate
664 by telephone, videotape, or other communications medium unless otherwise agreed in a
665 Special Magistrate agreement.
- 666
- 667 6. Witnesses and materials.
- 668
- 669 a. Each party must assure attendance at the hearing by those persons qualified by training or
670 experience to address issues raised by the request for relief, by the response, or by the
671 Special Magistrate, or to address alternatives, variances, and other types of modifications to
672 the development order or enforcement action.
- 673
- 674 b. The Special Magistrate may issue a subpoena for any nonparty witness in the state who will
675 aid in the disposition of the matter. A subpoena issued by a Special Magistrate may require
676 the witness to bring a specified document or thing.
- 677
- 678 c. The Special Magistrate may require and receive documents and other tangible materials
679 from any party or participant. All parties and participants shall have the opportunity to
680 examine and respond to such submissions.
- 681
- 682 d. The Special Magistrate may weight the credibility of witnesses.
- 683
- 684 e. Although an attorney is not required, any person compelled to appear or furnish documents
685 or tangible materials, or who appears voluntarily, may be represented and advised by legal
686 counsel at his or her own expense.

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- 687 7. Access to the property.
688
689 a. A request for relief constitutes a consent by the owner for the Special Magistrate and
690 parties or representatives to have reasonable access to the owner's land.
691
692 b. The owner may grant access to the land to participants.
693
- 694 8. Offer to compromise.
695
696 a. As provided by law:
697
698 i. All actions or statements of the Special Magistrate, the parties, and all participants are
699 evidence of an offer to compromise and are inadmissible in any judicial or
700 administrative proceeding.
701
702 ii. The proceeding may not be made known by a party or participant to any judicial or
703 administrative tribunal, or be construed for any purpose as an admission against
704 interest.
705
706 b. A party or participant is not bound by anything said or done during the proceeding unless a
707 written settlement is reached, in which case only the terms of the written settlement shall
708 be binding.
709
710 c. The Special Magistrate may not be called to appear before the City Council with respect to
711 any aspect of the proceeding, nor may the Special Magistrate be compelled to furnish notes
712 or drafts.
- 713 R. Settlement.
714
715 1. The owner and the city may enter into a settlement agreement or other agreement as to the
716 permissible use of the owner's land prior to the Special Magistrate filing a recommendation
717 under § 8.13.11.
718
719 2. A settlement agreement or other agreement as to the permissible use of the owner's land may
720 be executed subject to approval by the City Council. Any such agreement will not bind any party
721 until duly approved and executed by all parties to the agreement.
722
- 723 S. Post-hearing procedures.
724
725 1. Special Magistrate's recommendation.
726
727 a. The Special Magistrate shall file a recommendation with the Mayor within 14 days after the
728 conclusion of the hearing. The Special Magistrate shall also furnish a copy of the
729 recommendation to all parties and participants.
730

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- 731 b. If a settlement agreement or other agreement as to the permissible use of the owner's land
732 is executed prior to the Special Magistrate's recommendation, the recommendation shall
733 only:
734
- 735 i. Set forth the date and location of the hearing;
 - 736 ii. Identify the parties and other participants in attendance at the hearing;
 - 737 iii. Record, without comment, the fact that a settlement agreement or other agreement as
738 to the permissible use of the owner's land has been executed; and
 - 739 iv. Include as an attachment an executed copy of the settlement agreement or other
740 agreement as to the permissible use of the owner's property.
741
- 742 c. If a settlement agreement or other agreement as to the permissible use of the owner's land
743 is not executed prior to the filing of the Special Magistrate's recommendation, the Special
744 Magistrate will consider the facts and circumstances set forth in the request for relief, any
745 responses, and any other information produced at the hearing to determine whether the
746 development order or enforcement action, by itself or in conjunction with an action of the
747 city or another governmental entity, is unreasonable or unfairly burdens the owner's land.
748
- 749 d. In making a determination, factors the Special Magistrate may consider include the
750 following:
751
- 752 i. The history of the land, including when it was purchased, how much was purchased,
753 where it is located, the nature of the title, the composition of the property, and how it
754 was previously used;
 - 755 ii. The history of development and use of the land, including what was developed and by
756 whom, if it was subdivided and how and to whom it was sold, whether plats were filed
757 or recorded, and whether infrastructure and other public services or improvements may
758 have been dedicated to the public;
 - 759 iii. The history of relevant environmental protection and land use controls and other
760 regulations, including how and whether the land was classified, any uses that may have
761 been proscribed, and what changes in classifications have occurred;
 - 762 iv. The present nature and extent of the land, including natural and altered characteristics;
 - 763 v. The reasonable expectations of the owner at the time of acquisition or immediately
764 prior to the implementation of the regulation at issue, whichever is later, under the
765 regulations then in effect and under common law;
 - 766 vi. The public purpose sought to be achieved by the development order or enforcement
767 action, including the nature and magnitude of the problem addressed by the underlying
768 regulations on which the development order or enforcement action is based; whether
769 the development order or enforcement action is necessary to the achievement of the
770 public purpose; and whether alternative development order or enforcement action
771 conditions would achieve the public purpose and allow for reduced restrictions on the
772 use of the owner's land;
 - 773 vii. Uses authorized for and restrictions placed on similar property, including adjacent lands;
774 and
775

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- 776 viii. Any other information determined to be relevant by the Special Magistrate or agreed by
777 the parties to be addressed by the Special Magistrate.
778
- 779 e. The Special Magistrate shall utilize his or her expertise in formulating a recommendation
780 and, in applying this expertise, shall rely upon the sort of information. that a reasonable,
781 prudent person would rely on in the conduct of his or her affairs.
782
- 783 f. If the Special Magistrate determines the development order or enforcement action, by itself
784 or in conjunction with another action of the city or another governmental entity; is
785 reasonable and does not unfairly burden the owner's land, the Special Magistrate shall
786 recommend that the development order or enforcement action remain undisturbed.
787
- 788 g. If the Special Magistrate determines the development order or enforcement action, by itself
789 or in conjunction with another action of the city or another governmental entity, is
790 unreasonable or unfairly burdens the owner's property; the Special Magistrate shall
791 recommend one or more alternative actions that protect the public interest served by the
792 regulations at issue but allow for reduced restraints on the use of the owner's real property.
793 The alternatives may include the following:
794
- 795 i. An adjustment of land development or permit standards or conditions controlling the
796 development or use of the owner's land;
797 ii. Increases or modifications in the density, intensity, or use of areas of development;
798 iii. The transfer of development rights;
799 iv. Land swaps or exchanges;
800 v. Mitigation, including payments in lieu of on-site mitigation;
801 vi. Location of the development or use at issue on the least sensitive portion of the
802 property;
803 vii. Conditioning the amount of development or use permitted on the owner's land;
804 viii. A requirement that issues be addressed on a more comprehensive basis than a single
805 proposed use or development;
806 ix. Issuance of the development order, a variance, special exception, or other extraordinary
807 relief, including withdrawal of the enforcement action;
808 x. Purchase of the owner's land, or an interest in it, by the city or another governmental
809 entity; and
810 xi. If an apportionment of responsibility among governmental entities is necessary, the
811 Special Magistrate shall make such apportionment.
812
- 813 h. The Special Magistrate shall furnish a copy of the written recommendation to the Florida
814 Department of Legal Affairs.
815
- 816 i. The Special Magistrate's recommendation is a public record. A copy shall be available for
817 public inspection and copying at the City Clerk's office.
818
- 819 T. Effect of Special Magistrate's recommendation.
820

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- 821 1. The Special Magistrate's recommendation is advisory and not binding on the owner or the City
822 Council.
- 823
- 824 2. A Special Magistrate's recommendation constitutes data which shall be considered with respect
825 to any pertinent amendment to the Comprehensive Plan.
- 826
- 827 3. A Special Magistrate's determination that the development order or enforcement action, by
828 itself or in conjunction with actions of the city or another governmental entity, is unreasonable
829 or unfairly burdens the owner's land may serve as an indication of sufficient hardship to support
830 modifications, variances, or special exception to the application of statutes, rules, regulations, or
831 ordinances to the subject property as otherwise authorized by applicable rules and regulations.
- 832
- 833 U. Disposition of Special Magistrate's recommendation.
- 834
- 835 1. Within 45 days of receipt of the Special Magistrate's recommendation, the City Council shall:
- 836
- 837 a. Accept the recommendation as submitted and implement it in the ordinary course and
838 consistent with all other rules and regulations;
- 839
- 840 b. Modify the recommendation as submitted and implement it in the ordinary course and
841 consistent with all other rules and regulations; and
- 842
- 843 c. Reject the recommendation as submitted. Failure to act within 45 days of receipt of the
844 recommendation shall be deemed a rejection, unless the owner and the city agree to an
845 extension of time.
- 846
- 847 2. If the City Council adopts a recommendation to grant a modification, variance, or special
848 exception to the application of ordinances or regulations as they otherwise would apply to the
849 land, the owner shall not be required to duplicate processes in which the owner previously has
850 participated in order to effectuate the modification, variance, or special exception.
- 851
- 852 3. If the Special Magistrate recommends relief or other action in conjunction with another
853 governmental entity, the City Manager and/or his or her designee shall confer with appropriate
854 staff from the other entities to review the recommendation and determine whether a joint staff
855 recommendation can be made to the heads of the respective governmental entities.
- 856
- 857 4. Within 15 days after final action on the Special Magistrate's recommendation by the City
858 Council, the City Clerk shall send a copy of the order or other document memorializing final
859 action to the Florida Department of Legal Affairs.
- 860
- 861 5. Within ten days of final action on the recommendation, the owner shall notify the City Manager
862 in writing whether the owner accepts the decision on the recommendation.
- 863
- 864 6. If the City Council accepts the recommendation or modifies it and the owner rejects the
865 acceptance or modification, or if the City Council rejects the recommendation, the City Council
866 shall issue a written decision that describes as specifically as possible the use or uses available

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- 867 on the owner's land. The decision shall be issued within 30 days of final action on the
868 recommendation.
- 869
- 870 7. After the City Council has acted on the Special Magistrate's recommendation and a written
871 decision has been issued describing the use or uses available on the owner's land, or if the City
872 Council has not acted within 45 days, the owner may seek a formal adjudication on the
873 development order or enforcement action as otherwise authorized by law.
874

Draft - 2/5/18

Item Number: 6.B.
Meeting Date: 10/17/2018
Item Type: PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

**AGENDA
REQUEST
FORM**
CITY OF CAPE
CORAL



TITLE:

Future Land Use Map (Draft) - Continuation

REQUESTED ACTION:

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment?
2. Is this a Strategic Decision?
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

NOTE: This is a Public Hearing. The public are welcome and encouraged to provide input.

LEGAL REVIEW:

EXHIBITS:

Planning Team Coordinator, Wyatt Daltry, AICP, CFM
Future Land Use Map was provided by email to all the Commissioners.
Draft of the Future Land Use Map will be provided on the projector to view.

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description

- Future Land Use Map (Draft)

Type

Backup Material

CITY OF CAPE CORAL FUTURE LAND USE P & Z PUBLIC HEARING DRAFT

This map is not a survey and should not be used in place of a survey. While every effort is made to accurately depict the mapped area, errors and omissions may occur. Therefore, the City of Cape Coral cannot be held liable for incidents that may result due to the improper use of the information presented on this map. This map is not intended for construction, navigation or engineering calculations. Please contact the Department of Community Development with any questions regarding this map product.

09/17/2018

NOTE: Large scale Future Land Use Map amendments shall become effective 30 days after the City receives notification of the determination of compliance in accordance with Chapter 163.214, F.S. Amendments to future land use maps shall be provided in three portions: identifying the amendment to be adopted by the City Council, the amendment to be adopted by the City Council, and the amendment to be adopted by the City Council. Amendments shall become effective 30 days after the date of adoption in accordance with Chapter 163.214, F.S. Amendments to future land use maps shall be provided in three portions: identifying the amendment to be adopted by the City Council, the amendment to be adopted by the City Council, and the amendment to be adopted by the City Council.

LEGEND

Future Land Use Codes

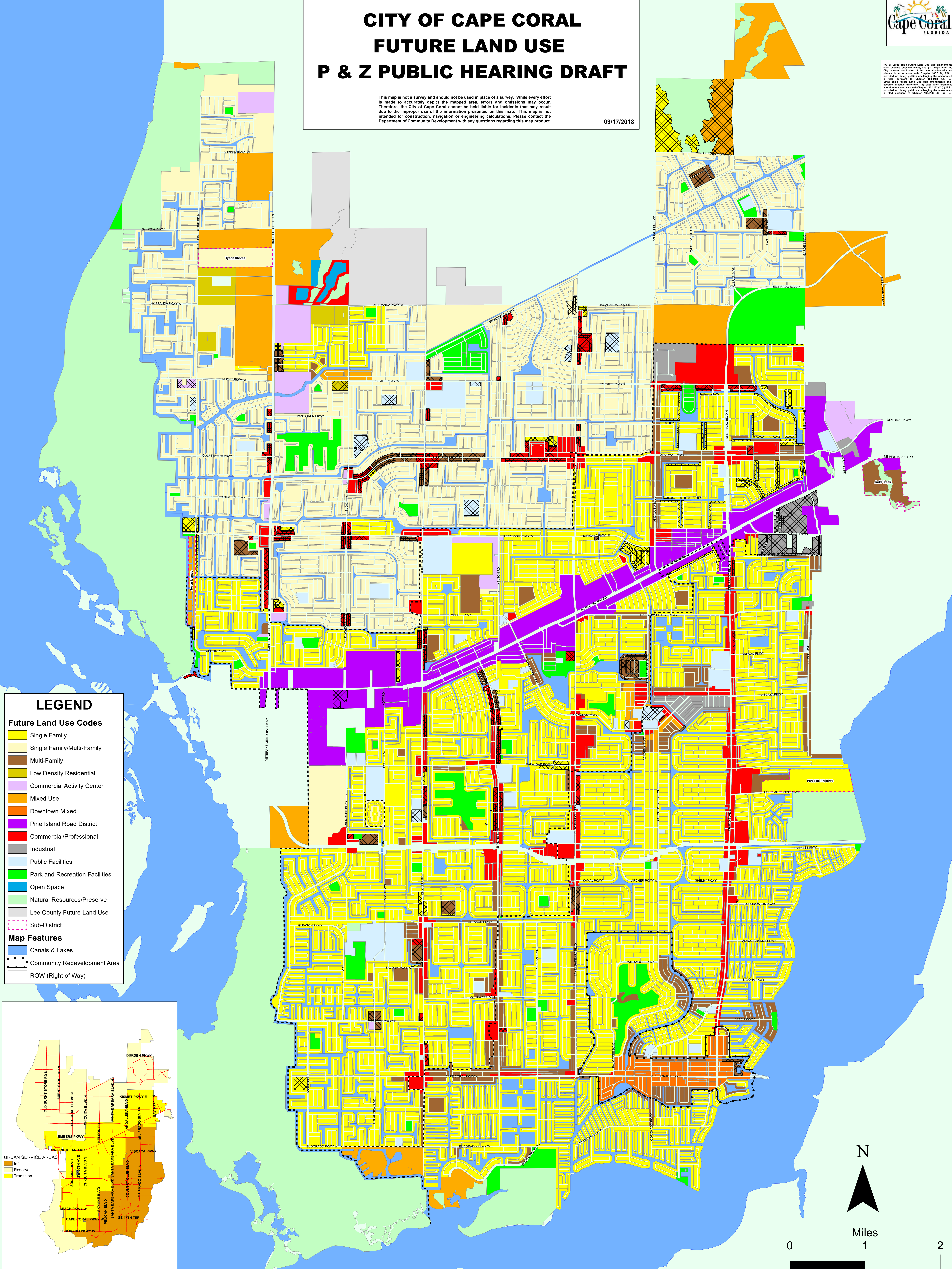
- Single Family
- Single Family/Multi-Family
- Multi-Family
- Low Density Residential
- Commercial Activity Center
- Mixed Use
- Downtown Mixed
- Pine Island Road District
- Commercial/Professional
- Industrial
- Public Facilities
- Park and Recreation Facilities
- Open Space
- Natural Resources/Preserve
- Lee County Future Land Use
- Sub-District

Map Features

- Canals & Lakes
- Community Redevelopment Area
- ROW (Right of Way)

URBAN SERVICE AREAS

- Infill
- Reserve
- Transition



N

Miles

0 1 2