

Cape Coral Special Planning & Zoning Commission/Local Planning

Agency



AGENDA

Wednesday, November 28, 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'Conner 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.

C. Zoning Map (Draft)

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 December 5, 2018 at 9:00 a.m. in Council

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.

Item Number: 1.A.
Meeting Date: 11/28/2018
Item Type: CALL TO ORDER

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Chair Read

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:
WHAT THE ORDINANCE ACCOMPLISHES:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

Item Number:	4.A.
Meeting Date:	11/28/2018
Item Type:	ROLL CALL

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Bennie, Marker, Marmo, Peterson, Ranfranz, Read, Slapper and Alternates O'Conner and Stevens

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:

WHAT THE ORDINANCE ACCOMPLISHES:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

Item Number:	6.A.
Meeting Date:	11/28/2018
Item Type:	PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

**AGENDA
REQUEST
FORM**
CITY OF CAPE
CORAL



TITLE:

Land Development Code Updates - ORDINANCE 35-18 - continuation

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? No
 - If Yes, Priority Goals Supported are listed below.
 - If No, will it harm the intent or success of the Strategic Plan? No

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

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.

LEGAL REVIEW:

EXHIBITS:

See attached Summary and separate Articles

PREPARED BY:

Kristin Division- Planning Department- Community
Kantarze Development

SOURCE OF ADDITIONAL INFORMATION:

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

ATTACHMENTS:

Description	Type
▣ Article 1 General Provisions	Backup Material
▣ Article 2 Decision Making	Backup Material
▣ Article 3 Development Review	Backup Material
▣ Article 4 Zoning Districts	Backup Material
▣ Article 5 Development Standards	Backup Material
▣ Article 6 Parking	Backup Material
▣ Article 7 Signs	Backup Material
▣ Article 8 Nonconformities	Backup Material
▣ Article 9 Floodplain Management	Backup Material
▣ Article 10 Subdivisions	Backup Material
▣ Article 11 Definitions	Backup Material
▣ Article 12 Building code and EDS	Backup Material
▣ Article 13 Reasonable Accommodation	Backup Material

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

Sections:

- Section 1.1.** Title
- Section 1.2.** Authority
- Section 1.3.** Purpose and Intent
- Section 1.4.** Jurisdiction and Applicability
- Section 1.5.** Compliance with regulations
- Section 1.6.** Violations, enforcement, and penalties
- Section 1.7.** Buildings under construction
- Section 1.8.** Outstanding permits
- Section 1.9.** Time limitation of approvals
- Section 1.10.** Annexed lands
- Section 1.11.** Comprehensive Plan and Future Land Use Map
- Section 1.12.** Official Zoning Map
- Section 1.13.** Transitional rules
- Section 1.14.** General rules of construction
- Section 1.15.** Measurements
- Section 1.16.** Interpretation of zoning district boundaries
- Section 1.17.** Severability

Section 1.1. Title.

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

Section 1.2. Authority.

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

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

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

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

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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, 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
- 204 b. Multi-family residential low density (RML)
205
- 206 c. Multi-family medium density (RMM)
207
- 208 d. Residential Estate (RE)
209
- 210 e. Agriculture (A)
211
- 212 2. Non-residential zoning districts.
213
- 214 a. Commercial (C)
215
- 216 b. Professional Office (P)
217
- 218 c. Industrial (I)
219
- 220 d. Institutional (INST)
221
- 222 e. Preservation (PV)
223
- 224 3. Mixed Use zoning districts.
225
- 226 a. Commercial Corridor (CC)
227
- 228 b. Neighborhood Commercial (NC)
229

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c. Mixed Use Seven Islands (MX7)

d. Mixed Use Bimini (MXB)

d. South Cape (SC)

e. Planned Unit Development (PUD)

F. Prior approved PDP projects and PUD zoning.

1. PUD zoning is consistent with all Future Land Use Classifications under the Comprehensive Plan, except for the Preservation FLUC. All uses in a PUD zoning category must be consistent with the underlying FLUC.

2. No existing sites with active and valid PDP approval will be rezoned to the PUD zoning category at the time of adoption of this code. Sites with PDP approvals may be designated with a new or different Comprehensive Plan Future Land Use Classification or a new or different zoning district in conjunction with adoption of this code without effect to the status of the approved PDP.

3, All planned development projects (PDPs) approved prior to the adoption of these regulations, and any approved site plan and conditions attached thereto, shall remain in full force and effect upon adoption of this code. All such approved PDPs may be developed in accordance with the previous approval, unless:

a. The existing PDP approval expires or substantial construction pursuant to the PDP approval has not commenced before the approval expires or if the approval is abandoned, the provisions of these regulations shall govern;

b. The owner chooses to develop the site under the FLUC and zoning district in effect for the site at the time of application and the scope of the development does not require an amendment to the existing PDP or require a new PUD approval;

c. The owner files an application for PUD approval on the site; or

d. The owner applies for substantial change or modification to the PDP approval. For purposes of this section, a substantial change or modification is one that exceeds the scope of administrative amendments to a PUD approval in Section 3.4.7.K. of this code.

G. Permits and Applications in process.

1. Permits and public hearing applications applied for during the applicability period of the previous code are considered active if a complete application has been received by the City prior to adoption of the LDC.

2. If considered active, these permits and public hearing applications will be reviewed and regulated by the rules and regulations of the previous code.

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- 276
277 3. Permits applied for under this subsection are considered active until the expiration of the permit.
278 Public hearing applications are considered active until the completion of the public hearing
279 process and associated appeal process, if necessary.
280

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

282
283 For the purposes of these regulations, the following rules of construction apply:

- 284
285 A. These regulations shall be deemed the minimum requirements for the promotion of the health,
286 safety, order, convenience, and general welfare of the community.
287
288 B. These regulations shall be construed to achieve the purposes and intent for which they are adopted.
289
290 C. Nothing in these regulations is intended to repeal any easement, covenant, deed restriction, or other
291 private agreement; however, where these regulations are more restrictive or impose higher standards
292 or requirements than such easement, covenant, deed restriction, or other private agreement, these
293 regulations shall govern.
294
295 D. In the event of a conflict:
296
297 1. Between the text of these regulations and any caption, figure, illustration, table, or map, the text
298 of these regulations shall control;
299
300 2. Between a chart and an illustration, the chart shall control. All illustrations included in these
301 regulations are for illustrative purposes only;
302
303 3. When limitations, restrictions, or standards apply to an individual lot, use, or structure the more
304 restrictive provisions shall apply; and
305
306 4. Between these regulations and any federal, state, or county law or regulation which pre-empt
307 local regulation, the federal, state, or county law or regulation shall apply.
308
309 E. Words and phrases shall be construed according to the rules of grammar and according to the
310 common and approved usage. Technical words and terms that are used and that may have a particular
311 meaning based on law shall be defined according to that meaning.
312
313 F. The terms "Ordinance," "Code," "Law," "Statute," "Title," and "Act" are understood to include the
314 term "as amended", unless the context clearly indicates otherwise. References to technical manuals,
315 resource materials, code references, the comprehensive plan, and similar documents are understood
316 to include the term "as amended" unless the context clearly indicates otherwise.
317
318 G. The words "shall," "must," and "will" are mandatory in nature, implying an obligation or duty to
319 comply with the particular provision.
320
321 H. The word "or" is alternative in nature.

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- 322
- 323 I. The word “may” is permissive in nature.
- 324
- 325 J. The word “including” shall be construed to include the phrase “but not limited to.”
- 326
- 327 K. Words used in the present tense include the future tense.
- 328
- 329 L. The singular number includes the plural number and the plural, the singular.
- 330
- 331 M. Words utilizing the masculine gender include the feminine gender and use of the feminine gender
- 332 includes the masculine.
- 333
- 334 N. The words “used” and “occupied” as applied to any land or building shall be construed to include the
- 335 words “intended, arranged, or designed to be used or occupied.”
- 336
- 337 O. The word “herein” means “these regulations.”
- 338
- 339 P. The words “building” or “structure” includes any of its parts.
- 340
- 341 Q. The word “person” includes an individual, a corporation, a partnership, an incorporated association,
- 342 or any other similar entity.
- 343
- 344 R. The word “owner” includes his or her agents or authorized representatives unless the context clearly
- 345 indicates otherwise.
- 346
- 347 S. Any act authorized by these regulations to be carried out by a specific official or agency of the City is
- 348 authorized to be carried out by a designee of such official or agency, unless the context clearly
- 349 indicates otherwise.
- 350
- 351 T. The time within which an act is to be done shall be computed by excluding the first and including the
- 352 last day, if the last day is a Saturday, Sunday, or a legal holiday the timeframe shall be extended to the
- 353 next working day.
- 354

355 **Section 1.15. Measurements.**

356

- 357 A. Number of Residential Units Allowed (Density). The maximum number of residential units allowed on
- 358 a site is determined by multiplying the maximum density allowed under the Comprehensive Plan by
- 359 the parcel size (i.e., allowable comp plan density (x) parcel size), except when the zoning district of a
- 360 parcel permits lot sizes that equate to a smaller maximum density for that parcel.
- 361
- 362 B. Distance requirements. Unless otherwise provided herein, distances shall be measured in accordance
- 363 with the following:
- 364
- 365 1. When the LDC requires a distance between uses or developments on different development
- 366 parcels or there are LDC requirements for a development within a certain distance from another

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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.

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:

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- 412 a. The natural elevation of the ground when compared to abutting properties. Natural elevation
413 of the ground when compared to abutting properties, shall be derived by selecting a minimum
414 of two (2) elevation points on each adjoining property line and calculating the average of all
415 the selected elevation points. This calculation will determine the reference plane for
416 calculating the height of habitable structures only;
417
- 418 b. The base flood elevation requirement for the lowest floor as shown on the flood insurance
419 rate map published by the Federal Emergency Management Agency (FEMA);
420
- 421 c. Eighteen (18) inches above the FEMA base flood elevation requirement for the bottom of the
422 Lowest Horizontal Structural Member (LHSM) of the lowest floor; or
423
- 424 d. Eighteen (18) inches above the State of Florida, Department of Environmental Protection
425 minimum requirement for the bottom of the LHSM of the lowest floor. For purposes of the
426 definition of grade, the term floor shall be defined as the top of the lowest inside surface of
427 an enclosed area in a building, including the basement. For example, the top of the slab in a
428 concrete slab construction or the top of wood flooring in wood frame construction. The term
429 does not include an unfurnished or flood resistant enclosure, usable solely for parking of
430 vehicles, building access, or storage in an area other than a basement area.
431
- 432 2. When used to measure non-habitable accessory structures, grade shall be the finished ground
433 surface at the base of the accessory structure being measured. If a retaining wall elevates the
434 non-habitable accessory structure, grade shall be the finished ground surface at the base of the
435 retaining wall.
436
- 437 H. Building Height. The height of buildings shall be measured from the lowest finished floor elevation to
438 the lowest point of the highest horizontal eave or the top of the roof slab for structures with flat roofs.
439 Church spires and steeples, chimneys, parapet walls, machine rooms, elevator towers, and similar
440 features necessary to the design and function of a building but not designed for human occupancy,
441 shall not be included in the measurement of overall building height.
442
- 443 I. Lot coverage. That portion of a lot that is covered by all principal and accessory buildings.
444
- 445 J. Lot depth. The depth of a lot is the distance measured from the mean direction of the side lines of the
446 lot from the midpoint of the street lot line to the midpoint of the opposite main rear line of the lot.
447
- 448 K. Lot width. The horizontal distance between the side lines of a lot measured at the front building
449 setback line, or at the front property line where no front setback is required.
450
- 451
- 452 L. Setback. A setback is the minimum horizontal distance between a structure and a property line.
453 Setbacks shall extend and be measured perpendicular and inward from the respective property lines.
454

455 **Section 1.16. Interpretation of zoning district boundaries.**
456

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

- A. Centerlines. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
- B. Lot, section, and tract lines. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- C. Political boundaries. Boundaries indicated as approximately following City limits shall be construed as following City limits;
- D. Shorelines. Boundaries indicated as following shorelines shall be construed to follow such shorelines. In the event of a change in the shoreline, the zoning district boundary shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;
- E. Vacations. Whenever any street, alley, or other public way is vacated by official action of the City Council, the zoning district of the property abutting each side of the street, alley, or public way shall be automatically extended to the center of such vacation and all area included within the vacation shall thereafter be subject to all regulations of the extended districts;
- F. Filled lands. Where land is built-up by fill upon areas formerly submerged under water, the district regulations applying to the land immediately adjoining such built-up land shall be automatically extended thereto;
- G. Parallel lines. Boundaries indicated as parallel to or extensions of features indicated in subsections A through F of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;
- H. Bisecting lines. Where district boundary lines approximately bisect blocks, the boundaries are the median line of such blocks, between the centerlines of boundary streets;
- I. Uncertainties. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or if any other uncertainty exists, the Director of Community Development shall interpret the intent of the official zoning map as to the location of district boundaries; and
- J. Excluded areas. Where land or water areas have been inadvertently excluded from a zoning district classification in any manner, such areas shall be classified in conformance with the most restrictive zoning district which abuts the excluded area until or unless changed pursuant to amendment procedures set forth in Article 3, Sec. 3.4.5.

Section 1.17. Severability.

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ARTICLE 1 - GENERAL PROVISIONS**

- 503 A. It is the intent of the City Council of the City of Cape Coral that the articles, chapters, sections,
504 subsections, paragraphs, sub-paragraphs, sentences, clauses, and phrases of this Code are severable,
505 and if any are declared invalid or unconstitutional by the valid judgment or decree of a court of
506 competent jurisdiction, such invalidity or unconstitutionality shall not affect the balance of these
507 regulations.
508
- 509 B. It is the further intent of the City Council of the City of Cape Coral that all property within the City be
510 governed by these regulations. Therefore, if the zoning district of a parcel is declared invalid or
511 unconstitutional, either on its face or as-applied, it is the intent of the City Council that the zoning
512 district applied to the parcel shall be the next more restrictive zoning district that is consistent with
513 the future land use district within which the parcel is located.
514

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LAND DEVELOPMENT CODE
ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES**

CHAPTER 1. PLANNING AND ZONING COMMISSION

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CHAPTER 3. ADMINISTRATIVE DECISION MAKERS AND ENFORCEMENT OFFICERS

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- Section 2.3.7.** Development Services Manager
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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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ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES

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

- D. Any power or duty delegated by the City Council.

Section 2.1.2. Membership; vacancy; compensation.

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

- B. Vacancies.

1. If a vacancy occurs on the Commission as the result of the resignation, death, or removal of a member, the senior alternate member shall temporarily fill such vacancy without action by the City Council, until the City Council appoints a successor regular member. In the event both alternates have served for the same continuous period of time then the alternate who is next scheduled to substitute for an absent regular member according to the rotation schedule shall temporarily fill the vacancy until the City Council appoints a successor regular member. In the event that the alternate member dies, resigns, is removed, or becomes a member, the City Council shall promptly appoint a qualified person to the unexpired term of the alternate.
2. In the event a vacancy occurs on the Commission; an alternate member may apply to be a regular member in the same manner as other applicants. In the event an alternate member is appointed to be regular member, then such appointment shall simultaneously terminate such person's position as an alternate member. In that event, the City Council may then appoint another person to fill the resulting alternate member vacancy.

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

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Section 2.1.3. Meetings; Quorum; Required vote.

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

Section 2.1.4. Staff; Attorney.

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

Section 2.1.5. Rules and records.

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

CHAPTER 2. HEARING EXAMINER

Section 2.2.1. Establishment.

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

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

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

Section 2.2.3 Exercise of power; powers and duties.

- A. Exercise of power. In exercising its powers, a Hearing Examiner may, upon appeal and in conformity with the provisions of this code, reverse or affirm, wholly or partly, or may modify the order, recommendation, requirement, decision, or determination made by the Director or an administrative official in the application, interpretation, or enforcement of this code and may make any necessary order, recommendation, requirement, decision, or determination, and to that end shall have all the powers of the administrative official from whom the appeal is taken.
- B. Powers and duties. A Hearing Examiner shall hear and decide or, when applicable, make recommendations, on the following:
 - 1. Applications for special exceptions;
 - 2. Applications for variances. The Hearing Examiner may impose any reasonable conditions or restrictions on a variance it decides to grant;
 - 3. Applications for deviations;
 - 4. Applications for vacations;
 - 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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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.

Section 2.3.5. Planning Manager.

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

Section 2.3.6. Public Works Director.

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

Section 2.3.7. Development Services Manager.

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

Section 2.3.8. Code Enforcement Manager.

The Code Enforcement Officer is charged with the initiation of and prosecution of enforcement actions 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. 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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Section 3.4.4. Special Exceptions

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

Section 3.4.6. Rezones

Section 3.4.7. Planned Unit Developments (PUD)

CHAPTER 5. SPECIFIC REVIEW PROCEDURES – LEGISLATIVE APPROVALS

Section 3.5.1. Annexations

Section 3.5.2. Future Land Use Map Amendments

Section 3.5.3. Comprehensive Plan Text Amendments

Section 3.5.4. Land Development Code Text Amendments

Plats (See Article 10)

CHAPTER 1. DEVELOPMENT REVIEW PROCEDURES

Section 3.1.1. Purpose.

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

Section 3.1.2. Classification of Development Review Procedures

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

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

1. Zoning and Flood Zone Verification Letters
2. Certificates of Zoning Compliance
3. Administrative Interpretations and Similar Use Determinations
4. Sign Permits (See Article 6)
5. Lot Splits and Lot Combines
6. Conditional Uses
7. Master Concept Plan (PUD) Amendments
8. Administrative Deviations
9. Site Development and Subdivision Construction Plans
10. Preliminary Subdivision Plans (See Article 10)
11. Site Improvement Permits
12. Temporary Use Permits
 - a. Special Events
 - b. Temporary Storage
 - c. Seasonal Sales
 - d. Construction Trailers

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- e. Construction Staging Areas and Post Disaster Staging
 - f. Temporary Sales Offices
 - g. Temporary Retail Sales
13. Reasonable Accommodations (See Article 13)

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

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

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

- 1. Annexations
- 2. Future Land Use Map Amendments
- 3. Comprehensive Plan Text Amendments
- 4. Land Development Code Text Amendments
- 5. Plats

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

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

Section 3.1.3. Development Approval Process; Table 3.1.3

Table 3.1.3 shows the development review process, the decision-making authority for each type of 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							
CirC	Circuit 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					
	Tents		D					
	Temporary Habitable Structures		D					
	Sidewalk Dining		D					
	Business Tax Receipts		D					
	Mobile Food Vendor		D					
	Reasonable Accommodations (see Article 13)		D					
		Appeals of Administrative Decisions	D	HEX	CC	CirC	✓	
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	CirC		✓	✓	✓
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.
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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Section 3.1.5. Pre-application, Preliminary Design Review, and Neighborhood meetings.

- A. Upon request of an applicant, the director may schedule pre-application meetings with applicants and appropriate City staff, for the purpose of reviewing proposed development prior to the formal submission of an application. Applicants are encouraged, though not required, to request a pre-application meeting. A pre-application meeting is required for Planned Unit Development applications.
- B. The pre-application meeting shall be informal, and its purpose shall be to discuss the proposals, views, and concepts of the applicant. The purpose is also to discuss whether any additional information will be required. Failure of staff to identify any required permits or procedures at a pre-application meeting shall not relieve the applicant of any such requirements in this code or constitute waiver of the requirement by the decision-making body.
- C. At the pre-application meeting staff will:
1. Review the proposed project and any preliminary plans with the applicant.
 2. Discuss and inform the applicant about the zoning requirements relevant to the proposal, information necessary for an application, and the approval process(es) for the project. This does not preclude the department from requesting additional information or waiving certain requirements for information later during the review process.
 3. Advise the applicant whether the proposed project conforms to the Comprehensive Plan or the requirements of this title.
- D. Preliminary Design Review Advisory Meetings. Upon request of an applicant, the director may schedule a preliminary design review advisory meeting with applicants and appropriate City staff, for the purpose of reviewing the design and engineering requirements for a proposed development project prior to the formal submission of an application. Applicants are encouraged, though not required, to request a preliminary design review advisory meeting. The substance and process of a preliminary design review advisory meeting shall follow the requirements of pre-application meetings detailed in subsections B and C, above.
- E. Any recommendations or determinations reached during a pre-application or preliminary design review advisory meetings are purely advisory and shall not be binding either on the applicant or the City.
- F. Applicants are encouraged, though not required, to hold a neighborhood meeting to advise nearby residents of upcoming development applications. The City will provide a list of surrounding property owners for applicants to notify when a neighborhood meeting is scheduled.

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.

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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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1. Drainage facilities;
 2. Environmentally sensitive lands;
 3. Fire protection;
 4. Parks and open space;
 5. Police protection;
 6. Potable water;
 7. Wastewater;
 8. Solid waste;
 9. Storm water; and
 10. Transportation facilities. A traffic impact study is required for any development anticipated to generate more than 300 p.m. peak hour average daily trips.
- D. If an application is determined to be insufficient, the director shall notify the applicant or agent in writing, stating the additional information required or the modification(s) necessary for conformance.
- E. No further action shall be taken on an application determined to be insufficient unless and until the insufficiency(ies) are resolved, as determined by the director. If the insufficiencies have not been remedied within sixty (60) calendar days, the director may void the application.

Section 3.1.9. Decision-making.

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

Section 3.1.10. Public Hearing Scheduling and Notice Requirements.

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- A. Scheduling for consideration. When an application is deemed sufficient pursuant to LDC Section 3.1.8, the Director shall schedule a public hearing for an appropriate date. No application shall be scheduled for consideration by the Hearing Examiner, Commission, or City Council until either:
1. All specified insufficiencies have been resolved; or
 2. The applicant has elected in writing to proceed notwithstanding the unresolved insufficiencies.
- B. Required notice of public hearings. Notice of public hearings shall be provided by publication of an advertisement in a newspaper of general circulation, mailed notice to surrounding property owners, and posting of the development site pursuant to the requirements of this section. Table 3.1.2 depicts the public hearing notice requirements for quasi-judicial and legislative applications under this Code:
- C. Website posting. Notices of public hearings for development applications shall be posted on the City of Cape Coral website but failure to post a case on the City website shall not constitute a violation of City noticing requirements. In addition, information about public notice and public hearings may be posted by the City on social media outlets.
- D. Publication. Publication of advertisements for public hearings concerning comprehensive plan amendments shall meet the requirements of Chapter 163, Florida Statutes. Publications for public hearings concerning zoning amendments shall meet the requirements of Chapter 166 Florida Statutes.
- E. Posting. The application site shall be posted with a notice of the public hearing on a sign provided by the Community Development Department at least ten (10) calendar days in advance of any public hearing. The number and placement of public notice signs should be determined by the Department. The signs shall be removed by the City after a final decision. The failure to remove posted notice after a final decision shall not be deemed a failure to comply with this requirement or be grounds to challenge the validity of any final decision on the application(s).
- F. Mailed notice. Notice of a public hearing on a proposed development application(s) shall be mailed to all owners of real property within five hundred (500) feet of the periphery of the site in question, whose names and addresses are known by reference to the latest published ad valorem tax records of the Lee County Property Appraiser.
1. Individually owned multi-family units. When real property consists of individually owned multi-family units, notice shall be given to the homeowner's association, if applicable, all individual unit owners, and all real property owners within five hundred (500) feet. If any area adjacent to the development site is owned by the applicant or any partner listed on the application, the five hundred (500) foot notification boundary shall be extended from these parcels. All property owner associations in the notice area shall be notified.
 2. Notice to other jurisdictions. If there are unincorporated lands within 500 feet of the property, Lee County shall also be notified.

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- 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:
366
- 367 a. The scheduled date, time, and location of the hearing;
 - 368 b. A general description of the nature of the matter to be addressed, written in layman's terms;
 - 369 c. The address of the property;
 - 370
 - 371 d. That persons may appear and be heard;
 - 372
 - 373 e. That written comments filed with the department will be entered into the record;
 - 374
 - 375 f. That the hearing may be continued from time to time as necessary;
 - 376
 - 377 g. A telephone number and contact for more information;
 - 378
 - 379 h. The case number or title of the ordinance under consideration, if applicable; and
 - 380
 - 381 i. Such additional information as may be required pursuant to this code or applicable law for
 - 382 specific types of development approval.
 - 383
- 384
- 385
- 386 5. Timing of mailed notice. Notice shall be mailed a minimum ten (10) calendar days prior to the
387 date set for the public hearing by first class mail. A copy of the notice shall be available for public
388 inspection during regular business hours at the Community Development Department. If the
389 application includes a simultaneous future land use map amendment and a rezone, the notice for
390 the rezone may be included in the notice required for the land use amendment.
391
- 392 G. Electronic Notice. The Community Development Department may, as a courtesy, send electronic
393 notice to any persons or organizations in the City, or to any governmental, public, or quasi-public
394 organization regarding any matter that may affect the interests of that person or organization, or on
395 any matter on which any such person or organization has requested notice. The failure of the
396 Department to send such notice or the failure of any resident or property owner to receive such
397 courtesy notice shall not affect the validity of the public notice requirements.
398
- 399 H. Exceptions to Mailing and Posting. The mailing and posting notice requirements shall not apply to a
400 land use map amendment initiated by the Council, in response to a judicial order or compliance
401 agreement as described by Section 163.3184(6) and (7), Florida Statutes.
402
- 403 I. Continued or Rescheduled Meetings. Notice of subsequent hearings shall be mailed and published in
404 accordance with this section for:

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

Section 3.1.11 Public Hearing Procedures.

- A. General. All public hearings shall be open to the public. Members of the public shall be permitted to testify at all public hearings. A copy of the hearing procedures shall be made available at the hearing. The applicant may withdraw an application by requesting such withdrawal in writing prior to the commencement of the hearing.
- B. Record of hearings. The City Clerk shall attend all hearings, and the City shall 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).
- C. Official file. All written communication received by the decision-making body, the Hearing Examiner, or staff concerning an application, the staff report on the application, any petitions or other submissions from the public, and all other documents pertaining to the application shall be filed in the official file for the application, which shall be maintained by staff. The Comprehensive Plan, the City Code of Ordinances, and the Land Development Code shall be deemed to be part of the official file. The official file shall be available for inspection during normal business hours.
- D. Order of public hearings. The hearing shall, to the extent possible, be conducted as follows:
 1. The Clerk shall read into the record the ordinance or resolution title and number, or the applicant's name, file number, and the subject matter to be decided if there is no ordinance or resolution.
 2. For quasi-judicial hearings, the applicant, staff, and all participants requesting to speak or present evidence or both at the hearing shall be collectively sworn by an oath or affirmation by the Clerk.
 3. The applicant may waive the applicant's right to an evidentiary hearing if applicant agrees with the staff recommendation and no one from the audience wishes to speak for or against the application. The decision-making body may then vote on the item or the Hearing Examiner shall rule on the matter or make a recommendation, based upon the staff report and any other materials contained within the official file. Regardless of a waiver by the applicant, a public hearing shall be held for all decisions requiring an ordinance or resolution.
 4. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the Hearing Examiner or Mayor determines to proceed in a different order, taking proper

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consideration of fairness and due process:

- a. The applicant shall make the applicant's presentation, including offering any documentary evidence, and introduce any witnesses as applicant desires. The applicant shall present the applicant's entire case in 30 minutes.
- b. Staff shall present a brief synopsis of the application; introduce any appropriate additional exhibits from the official file that have not already been transmitted to the Hearing Examiner or City Council with the agenda materials, summarize issues; and make a recommendation on the application. Staff shall also introduce any witnesses that it wishes to provide testimony at the hearing. Staff shall present its entire case in 30 minutes.
- c. Public comment. Participants in opposition to or support of the application shall make their presentation in any order as determined by the Chair, Hearing Examiner, or Mayor. Each participant shall present their argument in five minutes.
- d. For hearings on quasi-judicial matters only, the applicant may cross-examine any witness and respond to any testimony presented.
- e. For hearings on quasi-judicial matters only, staff may cross-examine any witness and respond to any testimony presented.
- f. The Chair, Hearing Examiner, or Mayor may choose to allow participants to respond to any testimony if the Chair, Hearing Examiner, or Mayor deems the response to be necessary to ensure fairness and due process.
- g. Members of the Planning and Zoning Commission, Hearing Examiner, or City Council may ask any questions of the staff, applicant, and participants.
- h. Final argument may be made by the applicant, related solely to the evidence in the record.
- i. Final argument may be made by the staff, related solely to the evidence in the record.
- j. For good cause shown, the Planning and Zoning Commission, Hearing Examiner, or City Council may grant additional time to any of the above time limitations.
- k. The Chair, Hearing Examiner, or Mayor shall keep order, and without requiring an objection, may direct a party conducting the direct examination or the cross-examination to stop a particular line of questioning that, in the sole judgment of the Chair, Hearing Examiner, or Mayor merely harasses, intimidates, or embarrasses the individual testifying or being cross-examined; is unduly repetitious or is not relevant; or is beyond the scope of the application or, in the case of cross-examination, is beyond the scope of the testimony by the individual being cross-examined. If the party conducting the direct examination or cross-examination continues to violate directions from the Chair, Hearing Examiner, or Mayor to end a line of questioning deemed improper as set forth herein, the Chair, Hearing Examiner, or Mayor may terminate the direct examination or the cross-examination.

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

E. Decisions. For all quasi-judicial hearings in which a decision is made regarding an application for any development permit, the decision to approve or deny shall be based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the Land Development Code, based on the entirety of the record before the Hearing Examiner or City Council. The Hearing Examiner or Council decisions must be based upon competent substantial evidence in the record.

F. Rules of Evidence for quasi-judicial hearings.

1. The decision-making body or the Hearing Examiner shall not be bound by the strict rules of evidence and shall not be limited only to consideration of evidence which would be admissible in a court of law. The decision-making body or the Hearing Examiner shall have the ability, but not the duty, to conduct site visits in their sole discretion and to consider any evidence so adduced in their deliberations.
2. The Chair or Hearing Examiner may exclude evidence or testimony that is not relevant, material, or competent or testimony which is unduly repetitious or defamatory.
3. The Chair, with the advice of the City Attorney, will determine the relevancy of evidence. In matters decided by the Hearing Examiner, the Hearing Examiner, without the advice of the City Attorney, will determine the relevancy of evidence.
4. Matters relating to an application's consistency with the Comprehensive Plan, the City Code of Ordinances, or the Land Development Code will be presumed to be relevant and material.
5. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in court.
6. Documentary evidence may be presented in the form of a copy of the original, if available. A copy shall be made available to the decision-making body or the Hearing Examiner and to the staff no later than two business days prior to the hearing on the application. Upon request, the applicant and staff shall be given an opportunity to compare the copy with the original. Oversized exhibits shall be copied and reduced for convenient record storage.
7. Only the applicant, an authorized representative of the applicant, staff, and the decision-making body or the Hearing Examiner shall be entitled to conduct cross-examination when testimony is given or documents are made part of the record.
8. The City Attorney shall represent the decision-making body and advise it as to procedures to be

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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
- 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.

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- 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
- 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

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

605

- 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

622 **Section 3.1.13. Conditions on Approvals.**

623

- 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

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Section 3.1.14. Appeals.

- A. Review by the Director. Applicants for administrative permits and approvals may request a formal review by the Community Development Director of staff decisions, within thirty (30) calendar days of the date the administrative decision was made. The request for review shall be accompanied by any relevant documents related to the review as determined by the Planning Manager or Development Services Manager. The respective manager shall review the relevant standards and present a written finding to the Community Development Director. The request for review shall be considered by the Community Development Director within 10 days of submittal of a complete request. The Community Development Director may consult with the City Attorney's office on the matter.

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

- B. Appeals of Community Development Director decisions (Administrative Appeal). An applicant desiring to appeal a decision of the Community Development Director, shall, within ten (10) calendar days from the date of such decision, file a written Notice of Appeal with the Department of Community Development. The appeal shall then be heard by the Hearing Examiner at a regularly scheduled meeting, provided there is sufficient time to review the appeal and provide the required public notice. A staff or Director's recommendation is not a decision and is not appealable.
- C. Appeals from decisions of the Hearing Examiner on Administrative Appeals. Any aggrieved party by a decision of the Hearing Examiner on a administrative appeal may file an appeal to the City Council within 30 days by filing a written Notice of Appeal with the City Clerk. All such appeals shall be based on the record.
- D. Appeals from decisions of the Hearing Examiner on Quasi-judicial matters. Any aggrieved party by a decision of the Hearing Examiner on a quasi-judicial matter may file an appeal to Circuit Court, provided same is done in the manner and within the time provided by Florida Rules of Appellate Procedure.
- E. Appeals from decisions of the City Council. An action to review any decision of the City Council under these regulations may be taken by any person or persons aggrieved by such decision by presenting to the Circuit Court a petition for issuance of a Writ of Certiorari, duly certified, setting forth that such decision is illegal, in whole or in part, certifying the grounds of the illegality, provided same is done in the manner and within the time provided by Florida Rules of Appellate Procedure.
- F. Stay of proceedings. An appeal shall stay all proceedings in the matter appealed from until the final disposition of the appeal by the City Council or Hearing Examiner. The pendency of an appeal shall toll all time periods applicable to the decision which is subject to appeal until final disposition of the appeal by the City Council or Hearing Examiner with regard to the appeal.
- G. Record. The record to be considered in the appeal shall include any application, exhibits, appeal papers, written objections, waivers, or consents considered by staff, the Hearing Examiner, or City

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Council, as well as transcripts and recordings taken at a public hearing, the Hearing Examiner or City Council minutes, and resolutions or ordinances showing the decision or action being appealed. The record shall also include the record made as a result of any prior applications for development approval on the same property. The City Clerk shall identify all exhibits used at the hearing. All exhibits so identified or introduced shall be a part of the City record.

CHAPTER 2. GENERAL REVIEW PROCEDURES

Section 3.2.1. All Permits and Approvals.

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

CHAPTER 3. SPECIFIC REVIEW PROCEDURES - ADMINISTRATIVE PERMITS AND APPROVALS

Section 3.3.1. Zoning Verification Letter or Flood Verification Letter.

- A. Purpose and Intent.
1. Zoning Verification Letter. To provide an official determination of the zoning of specific property

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2. Flood Zone Verification Letter. To provide an official determination of the FEMA Flood zone, as shown on the Flood Insurance Rate Map (FIRM) for specific property.

B. Review Criteria.

1. The Department will review the applicable City records, maps, and any supporting information and issue a Zoning or Flood Zone verification letter.
2. Verification letters are valid for the date upon which they are issued and may be subject to change.

Section 3.3.2. Certificate of Zoning Compliance.

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;

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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.)

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.

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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.
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 be 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:

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

Section 3.3.4. Lots Splits and Lot Combines.

A. Purpose and Intent.

1. To provide standards for the split and combination of lots and tax parcels along existing platted lot or parcel lines.
2. To provide standards for the split and combination of lots or tax parcels that do not require a replat.
3. To provide for a one time split of property when the lot split or combine does not require approval as a new subdivision plat or replat.
4. This section shall not apply to unrecorded subdivisions.

B. General Requirements

1. All divisions of land in the City shall occur only as a new subdivision plat, a replat, or a lot split. The requirements for subdivisions and replats are set forth in Article 10 of this Code. A lot split that does not meet the requirements of this chapter is deemed a subdivision or a replat and shall be defined and processed as set forth in Article 10.
2. 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 this Article.

C. Review Criteria and Standards

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1. Whether the lot split or combine creates nonconforming lots and structures.
2. The lot split or combine shall not cause marine improvements to become nonconforming for setbacks or any other standards regarding such structures.
3. Ensure that the lot split or combine does not create split zoning on a parcel.
4. The newly configured lots parcels must have at least twenty-five feet (25') of frontage on an existing right-of-way, private road, canal, lake, basin, or river. The minimum lot width of the zoning district must be met when measured at the front or rear setback, where applicable.
5. The newly created parcels shall not result in private utility lines crossing property lines.
6. A survey sketch prepared by a professional surveyor and mapper (PSM) indicating the legal description of the parent parcel, boundaries, dimensions, easements, restrictions or agreements affecting the property, rights-of-way, utilities, location of existing buildings, and other pertinent information including wetland boundaries and location of specimen and historic trees. The survey shall be required to be signed, sealed, dated, and certified to the City.
7. Approval and recording. The Community Development Department shall review the proposed lot split for compliance with the criteria listed in this subsection and Article 10, Subdivisions. Once approved the applicant may proceed with the lot split and record the lot split with the Lee County Property Appraiser. Approval shall expire within one (1) year of issuance if not recorded.

Section 3.3.5. Conditional Uses.

A. Purpose and Intent.

1. To provide standards and criteria for review and approval of specified conditional uses for a specific site.
2. To provide reasonable limitations or special conditions for conditional uses, in order to address, minimize, or ameliorate potential impacts of the use on surrounding property and for the protection of the public health, safety, and welfare.

B. General Requirements. Proposed conditional uses must meet the following requirements:

1. The conditional use standards identified in Article 5 for the specific zoning district use and conditional use in question.

C. Review Criteria. A Conditional Use may be approved by the Director based on criteria identified in Article 5. These criteria are specific to each conditional use.

Section 3.3.6. Administrative Deviations.

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- 954 A. Purpose and Intent. To grant relief from strict application of LDC requirements to allow minor
955 deviations.
956
- 957 B. Scope. Administrative Deviations may be granted for the following:
958
- 959 1. Setback requirements where the setback is not decreased by more than 10% in the applicable
960 zoning district and the encroachment does not extend into an easement, right-of-way, or is an
961 encroachment over the property line for a zero-lot line site.
962
 - 963 2. Reduction in the overall required parking by 5%.
964
 - 965 3. Landscaping or buffers. Up to a 10 % reduction in the width of required buffers or the required
966 number of trees and shrubs.
967
 - 968 4. Preservation of Vegetation. A deviation from the following regulations to accommodate the
969 preservation of existing native specimen tree(s):
970
 - 971 a. Up to five (5) percent of a required setback; or
 - 972 b. Up to five (5) percent of the required parking spaces.
 - 973 5. Minor sign deviations as set forth in Article 6 of this code.
974
 - 975 6. Maximum lot coverage of impervious surfaces. Up to a 10% increase in the maximum
976 percentage of lot coverage by impervious surfaces, provided the applicant submits calculations
977 by a Florida Registered Professional Engineer showing that the conveyance system for the
978 contributing drainage basin can accommodate the additional stormwater run-off from greater
979 than 60% impervious. A property owner may also add retention storage on-site to compensate
980 for the additional runoff in situations where they propose to exceed 60% impervious surfaces.
981 All such calculations and drainage plans must be approved by the City Public Works Department
982 prior to issuance of any building permits.
983
- 984
- 985
- 986 C. Review Criteria. An Administrative Deviation may be approved based on the following criteria:
987
- 988 1. The proposed deviation will not result in development that is inconsistent with the intended
989 character of the applicable zoning district.
990
 - 991 2. The normally required code standard(s) is determined to significantly inhibit development of the
992 site.
993
 - 994 3. The deviation will not impede the ability of the project or site to adequately provide for service
995 areas and other development features for the project.
996
 - 997 4. Access for service and emergency vehicles will not be impeded.
998
 - 999 5. The proposed deviations will result in a building and site design of equal or superior quality.

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D. Effective date of approval. A deviation shall take effect upon approval.

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

Section 3.3.7. Site Development and Subdivision Construction Plans.

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

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

1. Single-family dwellings; or
2. Duplex dwellings on existing platted lots or parcels.

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

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

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

1. The development, as proposed, conforms to the comprehensive plan and is consistent with the recommendations of any applicable PUD Master Concept Plan, Preliminary Subdivision Plan, or master plans which have been approved or accepted by the City Council;
2. The proposed development plans, landscape plans, engineering plans, lighting plans, and other required plans conform or will conform with all applicable City codes, the Engineering Design Standards, and design standards as set forth in this code;

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

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- 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 and maintenance.
 2. Opinions of Probable Construction Costs shall be prepared, signed, and sealed by the professional engineer of record.
 3. Cost opinions shall be a unit quantity itemized estimate of the required improvements including: mobilization, material and other testing, survey stake out, and a 10% contingency. Lump sums are only to be used for items typically not contracted as unit price items.
 4. Subdivisions. Cost opinions for subdivision improvements are to be provided as required in Article 10 of this code. The cost of improvements required to support a subdivision that will be turned over to the City for ownership and maintenance will be utilized in determining inspection fees for the subdivision infrastructure permit. Cost opinions for assuring the completion of subdivision improvements shall include, in addition to the items listed above, the cost of providing electrical service for lift stations, pump stations, or other components that may require electric service to function and setting PCP's. upon completion of construction.
- J. Amendments. Plan amendments include changes to projects which impact multiple aspects of the development, may affect multiple plans, and will require multiple departmental reviews to evaluate the proposed amendment to the plan(s).
1. The amendment process may not be used to substantively modify the scheme of development as originally approved under an approved SDP or SCP.
 2. Proposed amendments that impact a PDP or PUD approval criteria or conditions must receive approval of an amendment to the PDP or PUD prior to receiving SDP or SCP approval.
 3. Amendments may apply to projects that are currently under review, projects under construction or phased projects that have yet to be completed.

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4. The applicant shall submit a letter of intent, the applicable fee, the amended plan(s) and any other documentation required to review the proposed amendment.
5. The Development Services Manager shall determine if the proposed changes to the plan can be processed as an amendment, qualify for a lesser review process or requires a greater review process.
- K. Revisions. Revisions to an approved plan while under construction which do not increase the gross square footage of a building or adversely impact compliance with the approved plan, and would not alter the required infrastructure and improvements necessary to serve the project, may be approved in writing by the Development Services Manager provided such revisions fully conform to all existing City regulations. The Development Services Manager will determine if the revision requires an approved plan revision or if the revision can be shown on the Record Drawings.
- L. Limited Review. A Limited SDP Review for a new improvement or alteration of existing improvements to an approved project may be requested. Limited Reviews are for proposed improvements which do not substantially affect projects minimum technical requirements of this Code or do not require a review by three or more of the following review disciplines: zoning, planning transportation, drainage, fire, utilities and landscaping. Changes that exceed the criteria for the scope of a Limited SDP review as specified in this subsection or, as determined by the Development Services Manager, may be processed as an amendment or a full SDP review in accordance with this section. Applications reviewed under this process will be reviewed for compliance with the following general criteria:
1. The development must have no significant adverse effect upon surrounding land uses;
 2. The development must have no significant adverse effect upon public facilities in the area;
 3. The development must not adversely affect the environmental quality of the area; and
 4. The development proposal must be consistent with the City Comprehensive Plan.
- M. Site Improvement Permit. A permit review of minor changes to an existing development which does not require a separate Site Development Plan review. This permit may be utilized when the existing project is in full compliance with an approved plan or the site proposed for a minor change meets the following criteria: Any changes to an approved Site Plan project or SDP will not increase density, parking requirements, water or sewer usage, or enlarge a structure for human occupancy or assembly by more than 5% of the existing approved plan. For sites lawfully developed without Site Plan review, the 5% exception may be applied if the applicant submits all of the information required under SDP review. Determination of the 5% shall be cumulative based on the originally approved development.
1. All infrastructure exists on the site to service the site;
 2. Engineering is not required for the proposed change;
 3. Parking meets all parking code requirements;

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4. The improvement does not significantly alter the traffic circulation system or significantly change the use of property;
5. The existing project is in compliance with an approved landscape plan or the code in effect at the time of the original construction; and
6. The existing project meets all storm water management requirements.

Section 3.3.8 Site Development Permits.

- A. The Development Services Manager shall be authorized to approve, approve with conditions, or deny a site development permit for the following improvements and installations:
 1. Site Development;
 2. Subdivision Infrastructure;
 3. Site Improvements;
 4. Landscaping;
 5. Full Demolition;
 6. Parking lot seal coating or re-stripping of existing parking lots;
 7. Underground Fire Lines;
 8. Utility Service Relocations;
 9. Land Clearing and Fill;
 10. Relocation of Residential Storm Drains;
 11. Backflow Prevention; and
 12. Spot Dredging.
- B. Review. The Development Services Manager shall act upon applications for site development permits within 10 calendar days from the date of their submission.
- C. Issuance of Permits.
 1. All permits will be issued in compliance with the approved plans, if applicable, and may contain relevant conditions of the associated plan approval.
 2. If the proposed construction or alteration conforms with all applicable provisions of this Code and

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all other applicable law, the Development Services Manager shall issue a development permit authorizing such construction or alteration.

3. If the proposed construction or alteration fails to conform, he shall refuse to issue the permit and shall deliver written notice to the applicant stating the reason for the refusal.

D. Effect of Approval, Expiration, and Extensions. A site development permit shall expire six months from the date of issuance unless the permitted improvements are under construction and have passed a required inspection within the 90 days prior to the expiration of the permit. Erosion control inspections will not extend the expiration date. A permit may be extended for an additional 90 days. Failure to either pass a required inspection or request a permit extension within the 90-day period provided will result in expiration of the permit. Thereafter, a new permit will be required to continue construction.

E. Commencement of Construction. After approval of the plans, the applicant may construct the required improvements, subject to obtaining all required permits. The Development Services Manager shall be notified in advance of the date of commencement of such construction and the applicant shall schedule a preconstruction meeting where representatives of the developer, the City, contractors, and franchise utilities shall discuss the construction of the planned improvements. No work shall take place prior to the preconstruction meeting.

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

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

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

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

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1. Authority. Whenever the Development Services Manager finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the Development Services Manager is authorized to issue a stop work order. In addition, the Development Services Manager is authorized to issue a stop work order for the failure to contain or remove construction refuse as required in the Code of Ordinances, Chapter 9, Health and Sanitation.
 2. Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, all work on the construction site shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.
 3. Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.
- J. Final inspections by Engineer of Record. Upon completion of all improvements required under the approved plans or phase thereof, an inspection must be performed by the developer's engineer and the landscape architect. Upon finding the development to be completed and in substantial compliance with the approved plans, the engineer and landscape architect must each submit a letter of substantial compliance along with record drawings to the City. No final inspection will be performed by the City until the letter(s) of substantial compliance and record drawings have been accepted. The letter(s) of substantial compliance may include a description of minor changes as shown on the record drawings. Only minor changes which do not substantially affect the technical requirements of the approved plans and this code are to be indicated on the Record Drawings.
1. Letters of substantial compliance shall be digitally signed and sealed in PDF format. Substantial compliance requires that the development, as determined by an on-site inspection by a professional engineer, is completed to all the specifications of the approved plans and that any deviation between the approved plans and actual as-built construction is so inconsequential that, on the basis of accepted engineering practices, it is not significant enough to be shown on the Record Drawings.
 2. The respective professionals shall prepare and submit to the City digitally signed and sealed Record Drawings, in PDF format, of the completed project improvements. Record drawings shall be provided for the complete civil engineering and landscape features of the project.
 3. Record drawings shall be the complete set of approved plans which show strikethrough and markup of the as-built information obtained from direct field observation, survey, or contractor "as-built" drawings. Topographic surveys will not be accepted.
- K. Final Inspections by the City. Upon acceptance of the letter of substantial compliance and record drawings, the Development Services Manager will perform final inspections.
1. If the final inspections reveal that the development or phase is in substantial compliance with the approved plans, a certificate of completion will be issued. A certificate of completion is required prior to the issuance of a certificate of occupancy from the building division for any buildings

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associated with the project.

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

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

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

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

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

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

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

N. Violation of an approved SDP or SCP.

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

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- 1364 2. An application to amend or correct a SDP or SCP after construction has commenced in violation
1365 of the original approval will be charged an application fee equal to four times the original
1366 application base fee.
1367
- 1368 3. Submittal of the application and payment of the application fee does not protect the applicant
1369 from the remedies described in Article 1, Section 1-6 of this Code. Any of these forms of relief can
1370 be sought or maintained by the City until the problem is abated.
1371
- 1372 4. Failure to maintain a development in compliance with a SDP or SCP issued and approved by a
1373 certificate of completion constitutes a violation of this Code.
1374
- 1375 O. Phased Projects. Development projects may be split into phases to accommodate the development
1376 plans and schedules of the developer.
1377
- 1378 1. Site Development Plans. The phasing plan shall show all required facilities, infrastructure, and
1379 buildings, if applicable, on the entire parcel that is covered by the SDP approval.
1380
- 1381 a. If more than one building is covered by the SDP and the developer does not intend to
1382 receive certificates of occupancy (CO) for all of the buildings at one time, a separate Site
1383 Development Permit will be required for each build or builds to receive a CO apart from
1384 the other buildings.
1385
- 1386 b. A certificate of compliance for streets, utilities, parking areas, and drainage serving each
1387 building(s) will be required from the engineer of record prior to the City performing final
1388 inspection and closing permit and prior to receiving a certificate of occupancy from the
1389 Building Division.
1390
- 1391 c. If a final inspection is requested for only a portion of a development, that portion must be
1392 an approved phase of the development in accordance with the approved SDP.
1393
- 1394 2. Subdivision Construction Plans. Phasing of the SCP shall be in accordance with the PSP
1395 approval as established in Article 10.
1396

Section 3.3.9 Temporary Use Permits.

- 1397
- 1398
- 1399 A. Purpose and Intent. To authorize the temporary uses and activities which do not exceed specific
1400 time frames:
1401
- 1402 B. General Standards.
1403
- 1404 1. Only those uses that are listed below or otherwise approved as temporary uses in Article 5, may
1405 be allowed as temporary uses.
1406
- 1407 2. Each temporary use shall be evaluated by the Community Development Department for
1408 compliance with the standards and conditions set forth in the LDC and the applicable zoning
1409 district. Special event uses are evaluated by the Parks and Recreation Department.

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- 1410
1411 3. A temporary use permit shall take effect at the time of permit issuance and is in effect only for
1412 the specific time-period established in the temporary use approval.
1413

1414 C. Review Criteria. When considering an application for a temporary use, the Community Development
1415 Director or Parks and Recreation Director, as appropriate, shall consider whether and the extent to
1416 which:
1417

- 1418 1. The temporary use is consistent with the purposes, goals, objectives, and policies of the
1419 Comprehensive Plan;
1420
1421 2. The temporary use complies with all relevant and appropriate portions of Article 5, Development
1422 Standards;
1423
1424 3. The temporary use is not incompatible with the character of the immediate surrounding area;
1425
1426 4. The design, duration, and hours of operation of the temporary use minimizes adverse impacts on
1427 nearby properties, including visual and noise impacts;
1428
1429 5. Whether the use complies with all relevant standards related to health, sanitation, and
1430 transportation;
1431
1432 6. The temporary use complies with all other applicable provisions of this Code;
1433
1434 7. Any permanent structures used in conjunction with a temporary use must comply with the
1435 requirement for adequate public facilities referenced in the comprehensive plan; and
1436
1437 8. Whether any public safety detail will be necessary.
1438

1439 D. Allowable temporary uses: The following temporary use shall require a permit:
1440

- 1441 1. Temporary storage.
1442
1443 2. Seasonal sales.
1444
1445 3. Construction trailers.
1446
1447 4. Construction staging areas and post disaster debris staging.
1448
1449 5. Temporary sales offices.
1450
1451 6. Temporary habitable structures.
1452
1453 7. Special Events.
1454

1455 **Section 3.3.10. Temporary storage.**

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

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

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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 3.3.11 Seasonal sales.

- A. Except as provided herein, temporary outdoor seasonal sales of merchandise are prohibited. Seasonal sales of pumpkins, Christmas trees, or fireworks are permitted when conducted or sponsored by governmental agencies, nonprofits, charitable or religious organizations, sports, educational groups, social groups such as garden clubs, and fraternities or sororities. Seasonal sales of Girl Scout cookies and similar sales are permitted.
- B. Permitted seasonal fundraising events involving outdoor sales of merchandise shall meet the appropriate requirements of the Building Code, Electrical Code, Fire (Life Safety) Code, and Plumbing Code, particularly regarding temporary sanitary facilities; and are prohibited unless they received all required permits in compliance with this subsection. Sales of pumpkins, Christmas trees, or fireworks shall be permitted in all zoning districts except R1, RML, RE, MX7, and PV, . With the prior approval of the City, such sales may be permitted in accordance with the following limitations and requirements:
1. Pumpkins may be sold from October 1 through November 5;
 2. Christmas trees may be sold from November 15 through January 1;
 3. Fireworks may be sold from December 15 through January 1 and from June 1 through July 10;
 4. The hours of operation of all such seasonal sales shall be limited to 8:00 a.m. through 10:00 p.m.; and
 5. Seasonal sales shall comply with all location and permitting requirements specified in § 3.2.1.
- C. In the RMM zoning districts, the City may withhold approval of the seasonal sale if he or she determines that such sale would result in adverse impacts on the surrounding neighborhood. Alternatively, the City may place condition(s) on the approval of a seasonal sale in an RMM zoning district, if such condition(s) are necessary in order to protect the surrounding neighborhood from adverse impacts which would otherwise result from the seasonal sale.

Section 3.3.12 Construction trailers.

- 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.

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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.
 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.

Section 3.3.13 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;
 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.

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- 1593 6. No outdoor lighting is permitted for any staging area in a residential zoning district.
1594
1595 7. No jack-hammering, grinding, or crushing of concrete, rebar, or other construction materials is
1596 permitted.
1597
1598 B. Construction staging areas. Construction staging areas are a permitted activity in all zoning districts,
1599 provided the staging area is on the same parcel where construction activity is authorized by a valid
1600 building permit. Construction staging areas on vacant, adjoining, or nearby parcels is prohibited.
1601
1602 C. Post disaster debris staging areas. Post disaster debris staging areas are allowed in all zoning
1603 districts on sites designated by the City for such activity.
1604
1605 D. Post disaster construction staging. Staging areas for post disaster reconstruction efforts are allowed
1606 in all non-residential zoning districts. Post disaster construction staging is allowed in residential
1607 zoning districts as a (special exception/conditional) use.
1608

1609 **Section 3.3.14 Temporary sales offices.**
1610

- 1611 A. Temporary sales offices are mobile structures used only for the sale or lease of units within that
1612 development. For the purpose of this section, units within the development shall mean
1613 residential, non-residential, or mixed use habitable space or leasable floor area, whether
1614 occupying all of a building or individual areas within a building including residential units,
1615 residential or non-residential units, individual units in a multi-unit non-residential development,
1616 or freestanding residential or non-residential structures.
1617
1618 B. Requirements for a temporary sales office. The following requirements must be met prior to the
1619 approval of a temporary sales office:
1620
1621 1. Connection to sewer and water is required. If sanitary sewer and potable water are unavailable
1622 to the site, bottled water and portable sanitary facilities may be utilized until such time as
1623 sanitary sewer and potable water are available. A temporary sales office shall be connected to
1624 such facilities within 90 days of availability or within 90 days of the permitted temporary sales
1625 office, whichever is less.
1626
1627 2. The temporary sales office shall meet the setbacks of the zoning district in which it is located.
1628
1629 3. A temporary sales office shall not be used as a place of habitation or abode by any person(s),
1630 and shall not be used or occupied for business, office, or other purpose(s) at any time except
1631 between the hours of 7:00 a.m. and 9:00 p.m.
1632
1633 4. A minimum of three paved off-street parking spaces shall be provided for the temporary sales
1634 office.
1635
1636 5. The entrance to the site on which the temporary sales office is located shall consist of a city
1637 approved driveway or construction entrance. Any impervious area added for the temporary
1638 sales office shall be subject to review and approval by the city.

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- 1639
- 1640 6. The base of any temporary sales office shall be fully obscured by landscaping and skirting.
- 1641 Shrubs must be planted on 30-inch centers and have a minimum planted height of two feet.
- 1642 The type of irrigation, if applicable, must also be provided on the plan. Erosion shall be
- 1643 minimized and prevented to the extent practicable around any disturbed area.
- 1644
- 1645 7. The maximum duration of the permit shall not exceed one year. The Director may extend
- 1646 permits for up to six months each, based upon factors that include:
- 1647
- 1648 a. Size of the project.
- 1649
- 1650 b. Number of lots or units in the development remaining to be sold or leased.
- 1651
- 1652 c. Effect that the extension would have on the surrounding properties.
- 1653
- 1654 d. Developer's need for an extension and efforts, if any, the developer has put forward
- 1655 toward completion of the development (e.g., effort to complete construction in a timely
- 1656 manner, delays beyond the reasonable control of the developer, etc.).
- 1657
- 1658 8. A temporary sales office shall be removed no later than the date the development is completed
- 1659 or within 30 days after notice by the city that the application for development has been denied,
- 1660 whichever is applicable.
- 1661
- 1662 C. Permit application and submittal requirements. A permit shall be required for a temporary sales
- 1663 office. In order to obtain a permit for the use of a structure for a temporary sales office, the
- 1664 applicant shall submit the following to the Department of Community Development:
- 1665
- 1666 1. A scaled drawing of the site, identifying the location of the temporary sales office with
- 1667 dimensions. Construction plans shall also be submitted.
- 1668
- 1669 2. The names of the property owner and the operator of the temporary sales officer. In the
- 1670 event the operator is different from the property owner, written and notarized consent from
- 1671 the property owner must be submitted. Such written consent shall be revocable. In the event
- 1672 such consent is revoked, the temporary sales office shall be removed within 30 days.
- 1673
- 1674 3. The length of time the temporary mobile sales office is proposed for the site.
- 1675
- 1676 4. The description of potable water and sanitary facilities that will be available for the
- 1677 temporary office.
- 1678
- 1679 D. Inspection by city officials. In order to ensure compliance with all applicable laws and regulations,
- 1680 the temporary sales office shall be held open for reasonable inspection, without court order, by
- 1681 employees or agents of the City of Cape Coral or any other duly authorized governmental agency.
- 1682

1683 **Section 3.3.15 Temporary Habitable structures.**

1684

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- 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 business structures. When disasters result in significant destruction rendering homes and businesses uninhabitable, temporary housing and temporary business structures will provide residents and businesses with the ability to quickly resume normal activities during the restoration of their permanent structures.
- B. Definitions. Terms used in this subsection shall have the meanings as defined in Article 11, Definitions, unless the context clearly indicates or requires a different meaning.
- C. Declaration of habitable structure emergency. Following a disaster, the city shall evaluate the effect of the disaster on the public health, safety, and welfare. If the City Council finds that the disaster has negatively affected residential housing or business structures in the city by a significant degree, the City Council may, by a majority vote, declare the existence of a habitable structure emergency. Upon the declaration of a habitable structure emergency by vote of the City Council, the provisions of this subsection shall become effective. The habitable structure emergency shall identify the disaster which created the emergency situation, and may be declared for either a specified period of time or an indefinite period of time. If the emergency is for an indefinite period of time, the emergency shall continue until City Council, by a majority vote, terminates the habitable structure emergency.
- D. Habitable structure emergencies. During a habitable structure emergency, the city will allow, in accordance with the provisions set forth herein, the use of temporary structures. Temporary residential structures and temporary business structures must be approved by the city with a temporary placement permit. Application and issuance criteria for a temporary placement permit are as set forth below.
- E. Temporary business structures may be used for business owners to provide a means for a business to remain open during the time the permanent business structure is being repaired or replaced. Temporary business structures may be used to provide temporary facilities for governmental uses, critical public facilities, charitable, religious, or educational institutions that have been rendered uninhabitable. The regulations for temporary business structures shall apply to temporary business structures used for governmental uses, critical public facilities, charitable, religious, or educational institutions. For these institutions, the habitable structure regulations shall apply; however, the Building Official may waive any regulations when strict enforcement may preclude them from carrying out their normal or emergency functions. Critical facilities shall be limited to the following:
1. Federal, state, regional, or local government facilities;
 2. State, county, or local emergency operations centers;
 3. Police, fire, and emergency medical facilities;
 4. Radio and television stations;

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- 1731 5. Public, semi-public, and privately-owned utilities;
1732
1733 6. Hospitals, emergency medical care facilities, infusion centers, dialysis centers, physician's
1734 offices; and
1735
1736 7. Nursing homes and assisted living facilities.
1737
- 1738 F. Temporary placement permit. Following the declaration of a habitable structure emergency, a
1739 property owner may apply for a temporary placement permit (TPP) to locate onsite while the
1740 permanent structure is being repaired or rebuilt. A temporary placement permit (TPP) may be
1741 considered by the Building Official when the following criteria are met:
1742
- 1743 1. The existing permanent habitable structure has been determined to be uninhabitable as the
1744 result of a disaster by inspection of the city Building Official;
1745
1746 2. The property owner or occupant of a damaged structure desires to locate in a temporary
1747 residential or business structure; and
1748
1749 3. A habitable structure emergency must be in effect at the time of application.
1750
- 1751 G. Applications for temporary placement permits.
1752
- 1753 1. Application forms and required fees.
1754
1755 2. The following permits are required prior to application for a TPP:
1756
1757 a. City permits for hook-up to electric, potable water, and wastewater utilities; and
1758
1759 b. A State Department of Health or State Department of Environmental Protection permit
1760 authorizing the connection of the temporary residence to an onsite or small domestic
1761 wastewater treatment system.
1762
- 1763 H. Time limits. Temporary structures may be located for a period not to exceed 30 days. At the end
1764 of that 30-day period, if no application has been filed, the temporary habitable structure must
1765 be immediately removed from the site. If an application has been filed within the 30-day time
1766 period, the temporary habitable structure may remain in place until the TPP is either approved
1767 or denied. Once approved, the temporary habitable structure may remain in accordance with the
1768 TPP. If denied, the temporary structure shall be removed within five days from the date of denial.
1769
- 1770 I. Terms of use of temporary habitable structures. Applicants for a temporary habitable structure
1771 shall be subject to the following:
1772
- 1773 1. Except as otherwise provided herein, temporary structures shall not be occupied until such
1774 time as a valid TPP has been issued and is in effect for the site.
1775

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- 1776 2. Connection to sanitary sewer and potable water, or onsite water and wastewater facilities,
1777 and an external electrical system are required within 20 days of issuance of the TPP.
1778 Inspections for such connections shall be called into the city within two days of completion
1779 of each connection. Electrical and plumbing connections must be done by electricians or
1780 plumbers licensed to do business in the City of Cape Coral.

1781
1782 If there is no electricity to the site due to a power outage, a generator may be used. Upon
1783 restoration of electricity to the property, connection to the local power grid must be made
1784 within 24 hours of power restoration.

- 1785
1786 3. An application for a building permit is required within three months from the date of
1787 issuance of the TPP for temporary residential structures or within six months for temporary
1788 business structures. Failure to apply for a building permit within the required time shall deem
1789 the TPP revoked pursuant.

- 1790
1791 4. If a building permit application has not been submitted within the required time-frames, an
1792 applicant may petition City Council for relief from the time restrictions of this subsection.
1793 City Council shall determine whether the failure to apply for a building permit is due to good
1794 cause shown by the applicant. If City Council denies the request for relief, the temporary
1795 structure shall be removed from the site within ten days from the date of denial, or at the
1796 end of the initial three-month period for temporary residential structures, or at the end of
1797 the initial six-month period for temporary business structures, whichever is later.

- 1798
1799 5. Temporary habitable structures with a TPP may be used until the earlier of: 1) completion of
1800 the rehabilitation or reconstruction of the damaged structure; or 2) until such time as the
1801 owner or occupants of the damaged structure are established in a permanent structure at
1802 another location.

- 1803
1804 6. Occupants must comply with all mandatory hurricane evacuation requirements.

1805
1806 J. Temporary structures. Temporary habitable structures must comply with the following:

- 1807
1808 1. Temporary residential structures may consist of a recreational vehicle or a travel trailer.
1809 Temporary business structures may consist of recreational vehicles, travel trailers, or mobile
1810 offices. At the discretion of the Building Official, additional types of temporary business
1811 structures may be allowed, consistent with applicable federal, state, and local regulations and
1812 the provisions of this ordinance.

- 1813
1814 2. Must meet all applicable National Fire Protection Association and Life Safety codes and
1815 regulations as well as all applicable state and local requirements for tie-downs.

- 1816
1817 3. Shall contain plumbing (both water and wastewater) and electrical connections and shall be
1818 capable of being hooked up or attached to external plumbing and electrical systems. Temporary
1819 residential structures shall contain a kitchen capable of being hooked up or attached to external
1820 plumbing and electrical systems. Requirements for temporary business structures shall be
1821 based upon the proposed use.

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- 1822
- 1823 4. Shall meet the Florida Accessibility Code for building construction amenities.
- 1824
- 1825 K. Placement of temporary habitable structures. The following site considerations are required for
- 1826 placement of a temporary habitable structure:
- 1827
- 1828 1. Temporary residential structures may be anywhere on the site of the existing permanent
- 1829 residence; however, no a temporary residence is allowed within road rights-of-way or
- 1830 drainage or utility easements. The city may waive any development regulations regarding lot
- 1831 areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
- 1832 temporary residential structures.
- 1833
- 1834 2. Where more than one existing permanent residence has been rendered uninhabitable, the
- 1835 Building Official may allow up to the number of damaged permanent residences or residential
- 1836 units on the site. Such determination shall be based upon consideration of life, health, and
- 1837 safety requirements.
- 1838
- 1839 3. For temporary business structures:
- 1840
- 1841 a. Temporary business structures may be anywhere on the parcel of the existing business;
- 1842 however, temporary business structures are not allowed within road rights-of-way or
- 1843 drainage or utility easements. The city may waive any development regulations regarding
- 1844 lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
- 1845 temporary business structures.
- 1846
- 1847 b. Temporary business structures may be on property adjacent to the permanent business
- 1848 structure if a notarized, written consent from the property owner is submitted at the
- 1849 time of application for a TPP.
- 1850
- 1851 c. The establishment of an emergency response team center on a parcel containing a
- 1852 business does not necessarily preclude the placement of one or more temporary business
- 1853 structures on the same parcel.
- 1854
- 1855 d. Parking for a temporary business structure shall be provided based upon the square footage
- 1856 of the temporary business structure, including handicapped parking. However, a minimum
- 1857 of two handicapped parking spaces must be provided.
- 1858
- 1859 e. The entrance to the site shall have a city approved driveway or construction entrance.
- 1860 Any impervious area added for the temporary business structure shall be subject to
- 1861 review and approval by the city.
- 1862
- 1863 f. Additional conditions or restrictions may be placed on a temporary business structure as
- 1864 a condition of issuance in areas including, but not limited to, the following:
- 1865 i. Hours of operation;
- 1866 ii. Traffic control and access;
- 1867 iii. Lighting; and

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iv. Noise control.

L. Issuance and revocation. The Building Official may revoke a TPP upon finding that any of the following has occurred:

1. Failure to connect to water, sewer, and electrical within 20 days of the receipt of the TPP.
2. If an application for a building permit has not been submitted within required time from the date of receipt of the TPP, or relocation has not occurred before the time of expiration of the TPP, or, if a building permit later expires.
3. If, upon inspection by the Building Official, a temporary residence is not in compliance with the requirements of this subsection.
4. Failure to evacuate temporary residence during mandatory evacuation orders.
5. Upon revocation of a TPP, the temporary residence must be vacated and the temporary residence removed within five days of revocation. Failure to vacate or remove the temporary residence constitutes a violation subject to the penalty imposed herein.

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.

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- 1914 6. Upon the expiration of a TPP, a temporary residence or business structure must be removed
1915 or placed in proper storage on the property within 30 days. Failure to remove or properly
1916 store the temporary residence or business structure constitutes a violation subject to the
1917 penalty imposed herein.
1918

- 1919 7. Termination of temporary habitable structure. Once an uninhabitable structure has been
1920 issued a certificate of occupancy or certificate of use for a new or rehabilitated residence,
1921 business, or institutional facility, the TPP shall be deemed to be terminated. A temporary
1922 residential or business structure must then be removed or placed in proper storage on the
1923 property within 30 days. Failure to remove or properly store the temporary residence or
1924 business structure constitutes a violation subject to the penalty imposed herein.
1925

- 1926 8. Penalty. Any violation of the provisions of this subsection shall be subject to a \$500 fine. Each
1927 day of violation shall constitute a separate offense and shall be punishable as such.
1928

1929 **Section 3.3.16 Special Events.**
1930

- 1931 A. Special events in the city are administered and permitted by the Parks and Recreation Department.
1932

- 1933 B. Application and general requirements. Special events permits may be issued provided the following
1934 requirements are met:
1935

- 1936 1. A completed, signed, and notarized application shall be submitted no less than 60 days prior to
1937 the opening of the event. The application shall include the name and address of each applicant
1938 sponsoring the special event, the dates, times, and specific details of the event, and a list of all
1939 special events that the applicant has sponsored in the City for the past three years. Exceptions
1940 to the 60-day requirement may be approved by the Director of Parks and Recreation based on
1941 the size, duration, or nature of the event. The city reserves the right to verify the applicant's
1942 previous history of sponsoring special events with other jurisdictions.
1943

- 1944 2. A refundable clean-up deposit is submitted. The property shall be cleaned within 48 hours of
1945 the close of the event and returned to substantially the same condition that existed just prior
1946 to the start of the event or better. The clean-up deposit will be refunded upon satisfactory
1947 inspection of the property by the city after the event closes. If the property is not returned to
1948 substantially the same condition that existed just prior to the start of the event, or better, the
1949 city, in its sole discretion, may utilize the clean-up deposit to do so and refund the remainder,
1950 if any, to the applicant.
1951

- 1952 3. A site plan of the event venue and surrounding property shall be submitted. The site plan
1953 shall show the layout of all activities, such as stages, equipment, including location(s) where
1954 sound amplification equipment, if any, will be allowed, amusement rides, animal displays,
1955 etc., and all support facilities including egress and ingress locations, parking, refuse
1956 collection, sanitation, and lighting. The site plan shall also identify the presence of any
1957 environmentally sensitive issues including eagles, burrowing owls, tortoises, osprey, etc.
1958

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- 1959 4. If the applicant does not own the property for the special event or associated parking, a signed
1960 and notarized letter of permission from the property owner is required, along with a release
1961 and indemnification agreement in a form accepted by the City Attorney. If the applicant intends
1962 to transport patrons to the special event from a specified parking area, complete details
1963 including all traffic routes to be utilized shall be submitted to the city for approval.
1964
- 1965 5. Insurance requirements.
1966
- 1967 a. Certificates of insurance for all properties used for the event must be submitted to the
1968 Parks and Recreation Department for approval by the City Risk Manager no less than 21
1969 days prior to the event.
1970
- 1971 b. Applicants and vendors shall have commercial and general liability insurance, including
1972 coverage for independent contractors, premises and operations, contractual liability,
1973 products and completed operations, personal injury, and property damage. Insurance
1974 coverage shall be no less than \$1,000,000 combined single limit for bodily injury and
1975 property damage and no less than \$1,000,000 for liquor liability, if applicable.
1976
- 1977 c. Vendors shall also have motor vehicle liability insurance of no less than \$1,000,000 per
1978 vehicle and worker's compensation coverage as required by statute.
1979
- 1980 d. The City of Cape Coral shall be named as additional insured. Certificates of insurance shall
1981 show the City of Cape Coral as the certificate holder.
1982
- 1983 6. All applicable city ordinances and building, fire, and electrical codes shall be complied with.
1984
- 1985 7. Most events shall require off-duty City of Cape Coral police officers to be hired for the
1986 duration of any event to include one hour before opening and one hour after closing. The
1987 Police Chief shall determine the exact number of officers required, if any, based upon the
1988 size and nature of the event and past experience with similar events. The cost for the off-
1989 duty detail shall be set using the present rate charged by the Police Department which shall
1990 be paid by the applicant prior to the issuance of the permit. All applicants must comply with
1991 any rules or regulations imposed by the Police Chief which are consistent with this section.
1992
- 1993 8. Most events shall require off-duty City of Cape Coral firefighters or paramedics, to be hired
1994 for the duration of any event to include one hour before opening and one hour after closing.
1995 The Fire Chief shall determine the exact number of firefighters or paramedics required, if
1996 any, based upon the size and nature of the event and past experience with similar events.
1997 The cost for the off-duty detail shall be set using the present rate charged by the Fire
1998 Department which shall be paid by the applicant prior to the issuance of the permit. All
1999 applicants must comply with any rules or regulations imposed by the Fire Chief which are
2000 consistent with this section. In the event the Fire Chief determines that special equipment
2001 such as all-terrain vehicles, trailers, fireboats, fire and rescue assets, and appropriate
2002 personnel for the special equipment are necessary, the city reserves the right to request
2003 reimbursement for all or part of the discretionary cost from the applicant.
2004

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- 2005 9. No open flame or other device emitting flames or fire shall be used in any tent or air
2006 supported structure while open to the public.
2007
- 2008 10. All equipment including tents, stages, amusement rides, utility areas, ingress and egress
2009 points, and cooking areas shall be inspected and approved by city fire inspectors or state
2010 officials, if applicable, prior to the opening of the event. If applicable, inspection certificates
2011 and annual permits as required by the State of Florida, shall be submitted to the city prior to
2012 the opening of the event. All equipment or amusement rides, other than those which are
2013 patron-operated or controlled, shall only be operated by persons over 18 years of age who
2014 are employed by the applicant and who are thoroughly familiar with the operation of said
2015 equipment or amusement rides. The operator of such equipment or amusement rides shall
2016 be in the immediate vicinity of the operating controls at all times during the operation of the
2017 equipment or amusement rides and no unauthorized person shall be permitted to handle the
2018 controls during operation.
2019
- 2020 11. Any person, entity, group, or organization engaging in speech, expression, or assembly, which
2021 is protected by the First Amendment of the United States Constitution or by Article I, Section
2022 4 of the State of Florida Constitution, may do so during a Special Event, subject to the
2023 following reasonable time, place, and manner regulations.
2024
- 2025 12. If sound amplifying equipment is present on public or private property at the special event,
2026 the Director of Parks and Recreation shall establish one or more designated areas where such
2027 amplified sound may occur. If amplified sound is not permitted for the special event, all
2028 amplified sound shall be prohibited; however, nothing in this regulation shall serve to
2029 prohibit protected speech, expression, or assembly utilizing non-amplified, reasonable
2030 sound. For purposes of this paragraph, amplified sound caused by the police or fire
2031 departments of the city in the performance of their official duties, and public background
2032 sound, shall not be considered amplified sound so as to allow others to use sound amplifying
2033 equipment.
2034
- 2035 13. The Director of Parks and Recreation shall be responsible for the provisions of this section,
2036 department rules and regulations, and city ordinances. No action shall be taken to enforce
2037 this section until a warning to cease such a violation has been issued by a person authorized
2038 to enforce this section and the violator continues such violation.
2039
- 2040 14. No person shall be permitted into, or remain on, private property covered by any special
2041 event permit for an event open to the public without the consent of the permittee.
2042
- 2043 15. If a special event is open to the public only upon a payment of an entry fee or charge, no
2044 person shall be permitted into the special event without first paying the entry fee or charge.
2045
- 2046 16. No person shall unreasonably hamper, obstruct, impede, or interfere with any person, entity,
2047 group, or organization hosting a permitted special event.
2048
- 2049 17. All requirements of this section are subject to modification or waiver by the City Council
2050 based upon the size, duration, nature of the event, and the city's involvement.

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- C. Review Criteria. In determining whether a permit shall be issued, the Director of Parks and Recreation shall consider certain criteria including:
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

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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

A. Purpose and Intent. To grant relief from strict application of LDC requirements to allow minor deviations.

B. Scope. Deviations may be granted for the following:

1. Non-residential design standards in Article 5, Chapter 8.
2. Landscaping deviations in Article 5, Chapter 5, which do not qualify for an administrative deviation.
3. Design standards in the NC district.

C. Review Criteria. A 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 by the Hearing Examiner.

Section 3.4.3 Variances.

A. General.

1. A variance may be sought from any bulk, area, or dimensional standard contained in Article 4, Zoning Districts or Article 5, Development Standards of the LDC.
2. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures, or buildings in other districts, shall be considered grounds for the issuance of a variance.

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- 2141 B. Approval Criteria. In order to authorize a variance, the Hearing Examiner must find that the application
2142 meets all of following criteria:
2143
2144 1. That special conditions and circumstances exist which are peculiar to the land, structure, or
2145 building involved and which are not applicable to other lands, structures, or buildings in the same
2146 zoning district;
2147
2148 2. That the special conditions and circumstances do not result from the actions of the applicant;
2149
2150 3. That granting the variance requested will not confer on the applicant any special privilege that is
2151 denied by these regulations to other lands, buildings, or structures in the same zoning district;
2152
2153 4. That literal interpretation of the provisions of the regulations would deprive the applicant of rights
2154 commonly enjoyed by other properties in the same zoning district under the terms of these
2155 regulations and would cause or impart unnecessary and undue hardship on the applicant;
2156
2157 5. That the variance granted is the minimum variance that will make possible the reasonable use of
2158 the land, building, or structure;
2159
2160 6. That granting the variance will not change the use to one that is not permitted in the zoning
2161 district or different from other land in the same district; and
2162
2163 7. That the granting of the variance will be in harmony with the general intent and purpose of these
2164 regulations, and that the variance will not be injurious to the area involved or otherwise
2165 detrimental to the public welfare.
2166
2167 C. Effect of Approval. An approved variance shall run with the land.
2168

2169 **Section 3.4.4. Special Exceptions.**
2170

2171 The intent of this section is to permit Special Exception uses which are essential to, or would promote
2172 the public health, safety, or welfare in one or more zoning districts, but which might impair the integrity
2173 and character of the zoning district or in adjoining districts, such that restrictions or conditions on
2174 location, size, extent, and character of performance may be imposed in addition to those standards
2175 already imposed in the Land Development Code.
2176

2177 A. General.
2178

- 2179 1. No variances shall be granted that would reduce or eliminate minimum requirements for special
2180 exception uses.
2181
2182 2. The Hearing Examiner may prescribe appropriate conditions and safeguards in conformity with
2183 the special exception use requirements. All such conditions shall be part of the terms under
2184 which the special exception is granted.
2185
2186 3. A special exception shall be deemed abandoned if:

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

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

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

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

1. Consistency with the Comprehensive Plan?

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

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

4. Potential adverse impact to surrounding property must be mitigated to the maximum extent possible.

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

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

A. General.

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

a. Petitioner has color of title to the tract or parcel of land covered by the plat or portion of the plat of which vacation is sought, unless the petitioner is the City of Cape Coral;

b. Letter of approval from Lee County Electric Cooperative, Inc.;

c. Letter of approval from affected telephone companies;

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d. Letter of approval from affected cable companies; and

e. Letter of approval from any other affected utility companies (e.g., water, sewer);

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

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records of the county and shall return a copy, showing the recording information, to the Department of Community Development.

4. Effect. The adoption and recording of a vacation shall have the effect of vacating all streets and alleys and city-owned easements shown on the portion of the plat so vacated, unless the resolution or ordinance specifically reserved unto the city such city-owned easements or such streets or alleys. If public rights-of-way are vacated, the resolution or ordinance shall specify whether or not easements are reserved therein for utilities and drainage. The resolution or ordinance shall not have the effect of vacating any public canal shown on the portion of the plat vacated, unless the resolution or ordinance specifically so provides.

5. Petitioner's responsibility. The city, City Council, and all officers, employees, and agents thereof shall not assume any responsibility or liability for any matters and things to be done or completed by the petitioner pursuant to the provisions hereof. It is recognized that this procedure may affect substantial interests in real property and other proprietary rights, and the petitioner shall assume full and complete responsibility for compliance with the requirements of law and these procedures in connection with or arising out of any vacation proceedings instituted by the petitioner.

Section 3.4.6. Rezones

- A. Manner of Initiation. Applications for a change in zoning may be initiated in the following manner:

1. The City Council upon its own motion;
2. The Planning and Zoning Commission upon its own motion;
3. The property owner(s) of at least fifty-one percent of the land in the proposed rezone area;
4. The City Manager for a City initiated rezone; or
5. The Community Development Department, following approval of a similar use determination.

- B. Review Criteria. An application for a rezone shall be reviewed in accordance with the following criteria:

1. Whether the proposed zoning district proposed is consistent with the City Comprehensive Plan;
2. Whether the full range of uses allowed in the proposed zoning district will be compatible with existing uses in the area under consideration;
3. Whether the range of uses allowed in the proposed zoning district will be compatible with existing and potential uses in the area under consideration;
4. Whether the proposed zoning district will serve a community need or broader public purpose;

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5. The characteristics of the proposed rezone area are suitable for the uses permitted in the proposed zoning district; and

6. Whether a zoning district other than the district requested will create fewer potential adverse impacts to existing uses in the surrounding area.

C. Effective date of approval. A rezone shall take effect upon City Council adoption of the ordinance approving the rezone.

D. New application after denial. No application for a rezone which has been previously denied by the City Council shall be accepted for at least one year after the date of denial. An application to rezone property to a designation that is different than the designation which was denied by the City Council, will be accepted and considered without consideration of time since the previous application was denied.

Section 3.4.7. Planned Unit Developments (PUD)

A. General.

1. A Planned Unit Development (PUD) is an area 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.

2. In a PUD, the various land use elements are designed so that they interrelate with each other. The boundary between a PUD and adjacent land area(s) requires particular attention to ensure transition and that land use patterns are compatible.

3. Permitted uses in a PUD must be consistent with the Comprehensive Plan future land use classification for the site(s) in question.

B. Purpose and Intent. The purpose and intent of a PUD are to:

1. Innovation in Design. To encourage innovations in residential, commercial, mixed-use, and industrial development so that the needs of the population may be met by greater variety in type, design and layout of buildings and land uses and by the conservation and more efficient use of the space.

2. Appropriate Land Use. To promote the most appropriate use(s) of the land.

3. High Quality Development. To improve the design, character, and quality of new development.

4. Infrastructure. To facilitate the adequate and efficient provisions of roads and utilities.

5. Increased Compatibility. To achieve compatibility with surrounding neighborhoods and developments.

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- 2371
2372 6. Provision of Open Space. To preserve open space as development occurs.
2373
2374 7. Clustering of Uses. To provide for necessary commercial, recreational, and public facilities that
2375 are conveniently located to housing.
2376
2377 8. Increased Flexibility. To provide for flexibility in design for new development and future
2378 redevelopment.
2379
2380 9. Comprehensive Plan. To achieve the goals of the Comprehensive Plan.
2381
2382 10. To provide a method for previously approved Planned Development Projects to continue to
2383 develop under the terms of an approved PDP Development Order and to allow modification to
2384 existing PDP approvals under the PUD procedures.
2385
2386 C. Minimum Parcel Size. The minimum parcel size for a PUD is:
2387
2388 1. Non-residential or mixed use PUD. One acre.
2389
2390 2. All other PUDs. Three acres.
2391
2392 D. PUD approval steps. The PUD review and approval process includes:
2393
2394 1. A rezone to the PUD zoning district, which establishes the densities, intensities, and permitted
2395 uses within the PUD; and
2396
2397 2. A Master Concept Plan (MCP), which establishes the design, layout, and dimensional standards
2398 of the PUD.
2399
2400 E. Application and submittal requirements. Application and submittal requirements for a PUD are
2401 established in Sections 3.1.4 through 3.1.8 of this Article. In addition, a PUD requires:
2402
2403 1. An application for a rezone to the PUD zoning district; and
2404
2405 2. A Master Concept Plan application.
2406
2407 3. Submittal of the specific PUD application requirements listed in subsection G., below.
2408
2409 A PUD application for parcels 10 acres or larger may apply for a rezone to the PUD zoning district
2410 without submitting a MCP for concurrent review and processing.
2411
2412 F. Preapplication conference required. A pre-application conference shall be held with the Community
2413 Development Department prior to the submittal of a PUD. The applicant shall indicate the requested
2414 PUD zoning district and a sketch of the PUD Master Concept Plan, if applicable.
2415
2416 G. Specific PUD Submittal Requirements. A PUD application shall include the following:

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- 2417
- 2418 1. A Letter of Intent, including:
- 2419
- 2420 a. Reasons the PUD procedure is more desirable than a conventional plan;
- 2421
- 2422 b. General site description including acreages; and
- 2423
- 2424 c. General project description.
- 2425
- 2426 2. A PUD Master Concept Plan indicating:
- 2427
- 2428 a. Location of the uses within the site;
- 2429
- 2430 b. Dimensional standards such as height, setbacks, and lot sizes;
- 2431
- 2432 c. Vehicle circulation patterns, parking areas, and points of access;
- 2433
- 2434 d. Pedestrian and bicycle circulation with links to other external path systems;
- 2435
- 2436 e. Open space plan; and
- 2437
- 2438 f. Landscape and buffer plans.
- 2439
- 2440 3. Sample formation of HOA or other organization to operate and maintain open space and other
- 2441 on-site public or private improvements.
- 2442
- 2443 4. Phasing plan, if applicable.
- 2444
- 2445 H. PUD Zoning Districts. Each PUD shall be rezoned to one of the following designations, based on
- 2446 proposed development:
- 2447
- 2448 RPUD - Residential PUD
- 2449 CPUD - Commercial PUD
- 2450 IPUD - Industrial PUD
- 2451 MXPUD - Mixed Use PUD
- 2452 PFPUD - Public Facilities PUD
- 2453
- 2454 The proposed PUD zoning district must meet the criteria for rezones as set forth by this Code.
- 2455
- 2456 I. Review Standards and Criteria.
- 2457
- 2458 1. Every PUD shall be in conformance with the City Comprehensive Plan. The maximum density or
- 2459 intensity within any PUD shall be consistent with the future land use designation of the site as
- 2460 determined by the Comprehensive Plan.
- 2461

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- 2462 2. Specific uses, densities, and intensities for each PUD are established in the PUD rezone
2463 ordinance. The approved uses, densities, and intensities for a PUD shall take precedence over
2464 other standards and requirements in these regulations. The uses approved in a PUD shall be
2465 permitted uses.
2466
- 2467 3. Specific bulk, area, and dimensional standards for each PUD are approved in the MCP for a PUD
2468 and shall take precedence over the standards and requirements in these regulations for
2469 development that is not within an approved PUD. Elements to be evaluated for a PUD shall
2470 include:
2471
- 2472 a. Appropriateness of the proposed or density or intensity of the development;
 - 2473
 - 2474 b. Internal and external compatibility of the development and surrounding uses;
 - 2475
 - 2476 c. Transition and separation between surrounding uses;
 - 2477
 - 2478 d. Vehicular and pedestrian circulation patterns;
 - 2479
 - 2480 e. Arrangement and functionality of open space;
 - 2481
 - 2482 f. Access points;
 - 2483
 - 2484 g. Public amenities, if applicable;
 - 2485
 - 2486 h. Additional amenities that will serve the project; and
 - 2487
 - 2488 i. Details and design of internal and external buffers.
 - 2489
- 2490 4. Open Space.
2491
- 2492 a. For all PUDs except for IPUDs, a minimum of twenty-five percent of the total land area shall
2493 consist of common open space. The City may consider a request by the applicant for less
2494 than twenty-five percent common open space when deemed appropriate because of size,
2495 location, or nature of the proposed development.
2496
 - 2497 b. The amenities or off-site improvements shall be utilized by the City or developed by the
2498 applicant to mitigate the reduction of open space or to fulfill the recreational needs of the
2499 City.
2500
 - 2501 c. Areas that Do Not Count as Open Space. Parking and loading areas, streets, and rights-of-way
2502 shall not count toward usable open space.
2503
 - 2504 d. Areas that Count as Open Space. Water bodies, surface water retention areas, preservation
2505 areas, and riparian areas that are preserved as open space shall count towards this minimum
2506 standard, even when they are not usable by or accessible to the residents of the PUD. All
2507 other open space shall be conveniently accessible from all occupied structures in the PUD.

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- 2508
- 2509 e. Improvements Required. All common open space and recreational facilities shall be shown
- 2510 on the PUD Plan and shall be constructed and fully improved according to the development
- 2511 schedule established for each development phase of the PUD.
- 2512
- 2513 f. Landscaping along Sidewalks. All sidewalks within a PUD must be shaded by canopy trees.
- 2514 The area used for shading the sidewalks can be considered as part of the minimum open
- 2515 space requirement.
- 2516
- 2517 g. Maintenance of Open Space. All open space shall continue to conform to its intended use,
- 2518 as specified on the PUD Master Concept Plan. To ensure that public open space identified in
- 2519 the PUD will be used as open space, restrictions, easements, or covenants shall be recorded
- 2520 in deeds or the open space areas may be dedicated to the public to ensure their
- 2521 maintenance and to prohibit the division of any public open space. Any subdivision of land
- 2522 will require a Property Owners Association (POA) or Home Owners Association (HOA) to
- 2523 ensure that open spaces within a PUD are maintained. The City is not required to accept
- 2524 dedication of open space areas.
- 2525
- 2526 5. PUD Perimeter Buffers. The boundary between a PUD and adjacent land uses shall be
- 2527 landscaped with a buffer that has sufficient width and shall include screening to ensure a proper
- 2528 transition and increase compatibility between land uses. The buffer shall be approved by City
- 2529 Council.
- 2530
- 2531 6. Street Standards. All streets, roads, and drive aisles shall be designed and constructed in
- 2532 conformance with the City Engineering and Design Standards.
- 2533
- 2534 7. Phasing. When a PUD is developed in phases, a proportional amount of the open space and
- 2535 recreations areas shall be included in each phase, in order to comply with the open space
- 2536 requirements of this chapter at the completion of each phase of the development.
- 2537
- 2538 J. Master Concept Plan and concurrent Preliminary Subdivision Plan review. The approved Master
- 2539 Concept Plan may be used for Preliminary Subdivision Plan approval, as defined in Article 10,
- 2540 provided required details and information for PSP review are included in the MCP.
- 2541
- 2542 K. Amendments to Planned Unit Developments.
- 2543
- 2544 1. Administrative Amendments. Amendments to an approved PUD may be approved
- 2545 administratively if they meet the following criteria:
- 2546
- 2547 a. Density or intensity is increased by less than ten percent.
- 2548
- 2549 b. Open space is not decreased by more than five percent.
- 2550
- 2551 c. There are no changes to any condition of approval.
- 2552
- 2553 d. There is no change in permitted uses or types of structures.

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- e. Dimensional standards are changed by no more than ten percent.
2. Review Standards for amendments. An approved PUD Master Concept Plan may be amended if the applicant demonstrates that the proposed modification:
- a. Is consistent with the efficient development and preservation of the entire PUD;
 - b. Does not affect in a substantially adverse manner either the enjoyment of the land abutting upon, adjoining or across a street from the planned unit development;
 - c. Is not granted solely to confer a special benefit upon any person;
 - d. Does not contain proposed uses that detract from other uses approved in the PUD;
 - e. Does not contain an open space plan that differs substantially in quantity or quality from the originally approved plan; and
 - f. Contains streets and utilities that are coordinated with planned and existing street and utilities for the remainder of the PUD.
3. Amendments that require City Council Approval. Any amendment to a PUD that does not meet the criteria in subsection 1 through 2, above must be approved by the City Council.
- L. Effect of PUD approvals.
- 1. PUD zoning. A rezone to a PUD zoning district shall run with the land.
 - 2. Master Concept Plans. A MCP shall be valid for any time period established in the conditions of approval for the MCP. If a specific time period is not specified then the MCP shall run with the land.
- OR
- 3. If a Site Development Plan, a building permit for vertical construction, or a subdivision plat has not been approved within 10 years, the Master Concept Plan shall be null and void, unless an extension has been approved by City Council.
- M. Extensions. A PUD may receive one extension that is valid for two years. Upon expiration of the extension, the Master Concept Plan shall be null and void.

CHAPTER 5. SPECIFIC REVIEW PROCEDURES - LEGISLATIVE APPROVALS

Section 3.5.1. Annexations

- A. Purpose of Annexations. Annexations shall be considered for the following reasons:
- 1. The annexation implements the Comprehensive Plan.

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2. The annexation increases the City's inventory of non-residential lands.
 3. The annexation results in the removal of enclaves.
 4. The annexation results in the logical extension of City boundaries.
- B. Manner of Initiation. Applications to annex property in to the City may be initiated in the following manner:
1. The City Council; or
 2. By a petition of one or more owners of property within an area proposed for annexation.
- C. Review Criteria. Proposed annexations shall be reviewed in accordance with the requirements of Chapter 171, Florida Statutes.
- D. Effective date of approval: The effective date of an annexation will take place in accordance with Chapter 171, Florida Statutes.

Section 3.5.2. Future Land Use Map Amendments

- A. Purpose of Amendments. Future Land Use Map amendments shall be considered for the following reasons:
1. The amendment implements the goals, objectives, and policies of the Comprehensive Plan.
 2. The amendment promotes compliance with changes to other city, state, or federal regulations.
 3. The amendment results in compatible land uses within the a specific area.
 4. The amendment implements findings of reports, studies, or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assessments.
 5. The amendment is consistent with the City's ability to provide adequate public facilities and services.
 6. The amendment prepares the City for future growth, such as reflecting changing development patterns, identifying demands for community services, reflecting changes necessary to accommodate current and planned growth in population, and facilitating community infrastructure and public services.
- B. Manner of Initiation. Applications for a Future Land Use Map Amendment (FLUMA) may be initiated in the following manner:

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1. The City Council by its own motion;
 2. The Planning and Zoning Commission by its own motion;
 3. The City Manager for City initiated requests; or
 4. By a petition of one or more property owners of at least 51% of the property owners of an area proposed for amendment.
- C. Review Criteria. Proposed future land use map amendments shall be reviewed in accordance with the requirements of Chapter 163, Florida Statutes, and the following criteria:
1. Whether the proposed future land use amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan;
 2. The amendment protects the health, safety, and welfare of the community;
 3. The proposed amendment and all of the consistent zoning districts, and the underlying permitted uses, are compatible with the physical and environmental features of the site;
 4. The range of zoning districts and all of the allowed uses in those districts are compatible with surrounding uses in terms of land suitability or density and that a change will not result in negative impacts on the community or traffic that cannot be mitigated through application of the development standards in this Code;
 5. The site is capable of accommodating all of the allowed uses, whether by right or otherwise, considering existing or planned infrastructure for roads, sanitary and water supply systems, stormwater, parks, etc.; and
 6. Other factors deemed appropriate by the Commission and City Council.
- D. Effective date of approval. The effective date of a future land use map amendment shall be in accordance with Chapter 163, Florida Statutes.

Section 3.5.3. Comprehensive Plan Text Amendments

- A. Purpose of Amendments. Comprehensive Plan text amendments shall be considered for the following reasons:
1. The amendment clarifies the intent of the Comprehensive Plan.
 2. The amendment corrects an error in the Comprehensive Plan.
 3. The amendment addresses changes to state legislation, recent case law, or opinions from the Attorney General of the State of Florida.

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4. The amendment implements the Comprehensive Plan.
5. The amendment promotes compliance with changes to other city, state, or federal regulations.
6. The amendment results in compatible land uses within the future land use designation.
7. The amendment implements findings of reports, studies, or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assessments.

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

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

1. The City Council;
2. The Planning and Zoning Commission; or
3. The City Manager for City initiated requests.

C. Review Criteria. Proposed comprehensive plan text amendments shall be reviewed in accordance with the requirements of Florida Statutes, Chapter 163, and the following criteria:

1. The amendment is consistent with the goals and policies of the City Comprehensive Plan;
2. The amendment protects the health, safety, and welfare of the community; or
3. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.

D. Effective date of approval. The effective date of a comprehensive plan text amendment shall be in accordance with Chapter 163, Florida Statutes.

Section 3.5.4. Land Development Code Text Amendments

A. Purpose of Amendments. Land Development Code (LDC) text amendments shall be considered for the following reasons:

1. The amendment clarifies the intent of the LDC.
2. The amendment corrects an error in the LDC.
3. The amendment addresses changes to state legislation, recent case law, or opinions from the Attorney General of the State of Florida.
4. The amendment implements the LDC or Comprehensive Plan.

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- 2738
- 2739 5. The amendment promotes compliance with changes to other city, state, or federal regulations.
- 2740
- 2741 6. The amendment adds district uses that are consistent with the character of the current range of
- 2742 allowed uses.
- 2743
- 2744 7. The amendment results in providing compatible land uses within Cape Coral.
- 2745
- 2746 8. The amendment implements findings of reports, studies, or other documentation regarding
- 2747 functional requirements, contemporary planning practices, environmental requirements, or
- 2748 similar technical assessments.
- 2749
- 2750 B. Manner of Initiation. Applications for a LDC text amendment may be initiated in the following
- 2751 manner:
- 2752
- 2753 1. The City Council by its own motion;
- 2754
- 2755 2. The Planning and Zoning Commission by its own motion; or
- 2756
- 2757 3. The City Manager for City initiated requests, including text amendments associated with a similar
- 2758 use determination.
- 2759
- 2760 C. Review Criteria. Proposed LDC text amendments shall be reviewed in accordance with the following
- 2761 criteria:
- 2762
- 2763 1. Whether the proposed LDC text amendment is consistent with the goals, policies, and future land
- 2764 use designations of the City Comprehensive Plan;
- 2765
- 2766 2. The amendment results in compatible land uses within a zoning designation;
- 2767
- 2768 3. The amendment protects the health, safety, and welfare of the community; or
- 2769
- 2770 4. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.
- 2771
- 2772 D. Effective date of approval. The effective date of a LDC text amendment shall take place upon
- 2773 adoption.
- 2774

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 4 – ZONING DISTRICTS**

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)
- Section 4.5.16.** Planned Unit Development Districts (PUD)

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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8. Regulation of:

- a. Height, bulk, and access to light and air of buildings and structures;
- b. The area of yards and other open spaces; and
- c. The density or intensity of development on a given site.

- B. To accomplish these objectives, the regulations and districts and accompanying zoning map have been designed with reasonable consideration, among other things, to reflect the character of the districts and their suitability for particular uses.

Section 4.2. Establishment of Zoning Districts

For regulating and restricting the use of land and the erection, construction, reconstruction, altering, moving, or use of buildings and structures, the City of Cape Coral is divided into zoning districts. The City zoning districts are classified as follows:

A. Residential Zoning Districts

- 1. Residential Single Family (R-1). This district is established to encourage and protect single-family development and to permit other uses generally compatible with single-family residential uses.
- 2. Residential Multi-Family Low (RML). This district is to accommodate multi-family housing to meet the needs of a diverse community, while ensuring that there is a transition to single-family neighborhoods which protects the integrity of those neighborhoods. The RML district acts as a transition zone from lower density residential to higher density residential or non-residential uses or zoning districts. The RML zoning district should only be established where City water and sewer services are available.
- 3. Residential Multi-Family Medium (RMM). This zoning district is to accommodate multi-family housing at a higher density than RML to meet the needs of a diverse community. The RMM district also acts as a transition zone from lower density residential areas to non-residential land uses or zoning districts.
- 4. Residential Estate (RE). This district is established to provide areas for single-family dwellings typically on parcels of 40,000 square feet or more in areas of the city that are rural in character. The RE district permits the keeping of some domesticated livestock for use by the occupants.
- 5. Agriculture (A). This district is to accommodate agricultural activities and operations which may include crop cultivation; the breeding, raising, or keeping of livestock or fur bearing animals; dairy farming; apiculture; and to allow all accessory uses and structures customarily incidental to those 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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4. Mixed Use Bimini (MXB). This district is to promote redevelopment and enhancement of the Bimini Basin area of Cape Coral to create a destination for residents and visitors, consistent with the Downtown Mixed Future Land Use Classification and the Bimini Basin Revitalization and 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.

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.

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.

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.

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Table 4.3.1. Zoning District Density and Dimensional Standards

ZONING DISTRICTS AND DENSITY			
Zoning District	Minimum Density or # of Units	Maximum Density or # of Units	Affordable Housing Bonus
Residential Zoning Districts			
R-1	N/A	4.4/acre (8.8/acre for microcottages)	N/A
RML	N/A	16/acre	Up to 100%
RMM	N/A	25/acre	Up to 100%
RE	N/A	1.1/acre	N/A
A	N/A	2.2/acre	N/A
Mixed-Use Zoning Districts			
CC	10 or 50 units	25/acre	Up to 100%
NC	12 or 50 units (75 units > 20 ac)	25/acre	Up to 100%
MXB	N/A	50/acre	50%
MX7	N/A	995 units	N/A
SC	N/A	50/acre	40%

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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								
	Minimum Lot Area (square ft.)	FAR	Front	Front, Cul-de-Sac	Side	Rear	Double Frontage	Corner Lot Side	Maximum Height (feet)
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
	Mixed-Use								
	Minimum Lot Area (square ft.)	FAR	Front	Front, Cul-de-Sac	Side	Rear	Double Frontage	Corner Lot Side	Maximum Height (feet)
NC	See Table 4.5.12								
MXB	None	1 or 2 (if Mixed Use building > 1 acre)	8-12	None	0 or 5	0 or 5 (alley) or 15 (waterfront)	8-12	8-12	115 (or 8 stories)

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MX7	None	1	15	None	0 or 6	15	15	10	115 (or 8 stories)
SC	None	4	See Section 4.5.15.B.2						95 (or 6 stories)*
* 120 feet (or 10 stories), whichever is less, if 20% or more of the units are affordable									

Section 4.3.2 Setbacks for Residential-Zoned Sites Abutting Platted Waterways.

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:

- 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.

Section 4.3.3 Projections and Encroachments into Setbacks

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 road along the property frontage, except as provided below or as shown in Table 4.3.2, below.

- A. Structures less than 30 inches in height are not considered encroachments into minimum required setbacks.
- B. Bermed earth, plant materials, sidewalks, and driveways are not considered encroachments.
- 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 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 must comply with all setback requirements and shall not be placed in any easement.

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4. Permitted encroachments into required setbacks are not allowed to encroach into utility easements (See Article 5, Section 5.1.6).

Table 4.3.3 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	N/A	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
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”.
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

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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.

USE HIERARCHY

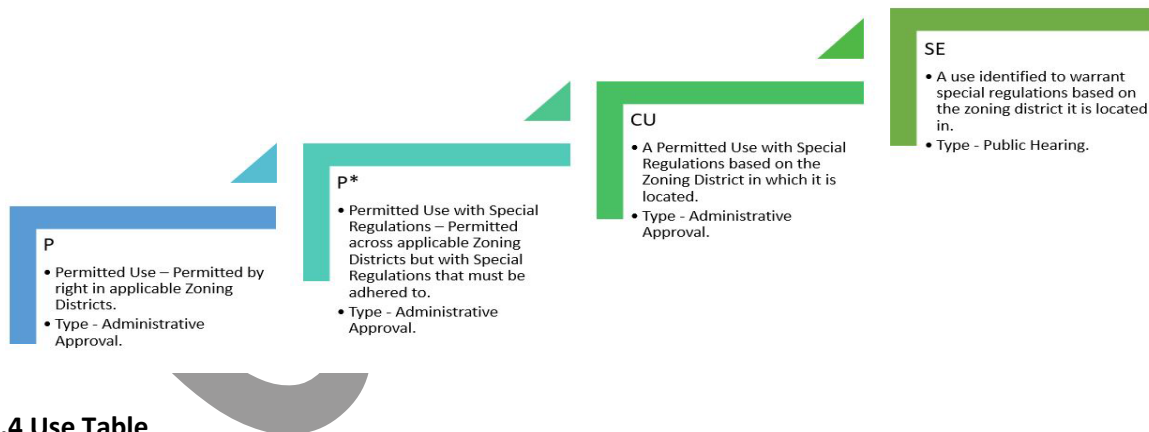


Table 4.4 Use Table

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																		
PUD zoning allows all uses consistent with the Future Land Use Classification																		
	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
	Single-family Semi-detached		P* or CU	P* or CU														
	Single-family Attached - 3 or more		CU	P								CU	CU	CU	CU			
	Micro-Cottage	p*	p*	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						
	Police and Fire	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Public Parks and Recreational Facilities	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
Recreation and Entertainment	Sexually Oriented Business								P									
	Commercial Recreation, Indoor							P				P	P			P	P	P
	Commercial Recreation, Outdoor					P		P				P						
	Golf Course w/ Ancillary activities	P	P	P	P	P												
	Golf, Driving Range					P												
	Golf, Miniature					P		P				P	P				P	P
	Marina							P					P	P	P	P		
	Shooting Range/Archery - Indoor							P				P						
	Shooting Range/Archery - Outdoor					SE												
Vehicle-related Commercial	Boat Sales							P	P			P					CU	CU
	Car Wash							P				P						
	Commercial Parking lot or Garage							P							P	P	P	P
	Heavy Vehicle, Sales & Rental								P			P						
	Light Vehicle, Rental							P				P	P				P	P
	Light Vehicle, Sales											P*						
	Vehicle Repair, Major								P			SE						
	Vehicle Repair, Minor							CU	P			P						
	Vehicle Fueling Station							CU	P			P	CU				CU	
	Vehicle Storage					P			P									
	Accessory Parking Lot		P*				P*	P*				P*						

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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
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	P
	Building and Construction w/ outdoor storage/display							p*	p*			p*						
	Landscaping Services w/o outdoor storage/display						P	P	P			P	P		P	P	P	P
	Landscaping Services w/outdoor storage/display							p*	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

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					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	Amphitheaters/ 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*	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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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.

4. Cattle, mules, goats, sheep, swine, and poultry. The keeping, raising, and breeding of non-domestic animals, including cattle, mules, goats, sheep, swine, and poultry may be permitted in the Residential Estate as follows:

a. Lot size. The minimum lot area required for the keeping, raising, and breeding of non-domestic animals, as identified in this section, is 100,000 square feet.

b. Animals within this subsection may not be kept or allowed to run within 100 feet of any zoning district other than the Residential Estate (RE) within the Low Density Residential II Future Land Use Map classification and Agricultural zoning districts.

c. Buildings or other roofed structures or enclosures for the keeping of animals within this subsection must be set back a minimum of 150 feet from any zoning district other than Residential Estate (RE) or Agricultural (A) zoning districts, under separate ownership.

d. The keeping and raising of non-domestic animals within this subsection is permitted in the Residential Estate zoning district for personal use only, or for youth or farm-education programs such as 4-H or The National FFA Organization.

C. Accessory structures. Accessory structures in the Residential Estate zoning district shall not have a maximum size.

Section 4.5.5. Agricultural (A)

A. Specific regulations for, RV resorts, wireless communication facilities, and home occupations are established in Article 5, Chapter 10.

B. Carports, garages or other buildings not used as a dwelling and customarily incidental to the principal permitted use of the premises.

C. A minimum of five acres is required for all non-residential uses.

Section 4.5.6. Commercial (C)

Specific regulations for: commercial parking lots and parking garages as a standalone use; craft brewery, distillery, and wineries; building and construction with outdoor display or storage; mobile food vendors; and wireless communication facilities are found in Article 5, Chapter 10.

Specific conditions for vehicle repair, minor, vehicle fueling stations, and self-storage facilities, are established in Article 5, Chapter 11.

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Section 4.5.7. Professional Office (P)

Specific regulations for mobile food vendors and wireless communication facilities are found in Article 5, Chapter 10.

Section 4.5.8. Industrial (I)

Specific regulations for mobile food vendors and wireless communication facilities are found in Article 5, Chapter 10.

Section 4.5.9. Institutional (INST)

A. Specific regulations for mobile food vendors and wireless communication facilities are found in Article 5, Chapter 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 Maximum FAR	Up to 100% 1.0	
Free-standing Residential Minimum Density Maximum Density	Not allowed Not allowed	10 du/acre or 50 units 25 du/acre
Mixed-Use Minimum Density Maximum Density Maximum FAR	3 du/acre 12 du/acre 1.0	10 du/acre or 50 units 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.

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A. Specific regulations for: craft brewery, distilleries, and wineries; mobile food vendors; building and construction with outdoor display or storage; and wireless antennas are found in Article 5, Chapter 10.

B. Specific conditions for multi-family residential, single-family attached with 3 units or greater, outdoor screened storage, and self-storage facilities are in Article 5, Chapter 11.

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, Chapters 10 and 11.

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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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 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.

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	15%-100% 1.0	20%-75% 1.0
Free-standing Residential Development Area Minimum Density Maximum Density	N/A N/A N/A	15%-85% 12 d.u./acre <u>or 50 units</u> 25 d.u./acre	25%-80% 12 d.u./acre <u>or 75 units</u> 25 d.u./acre
Mixed-Use Development Area Minimum Density Maximum Density Maximum FAR	0-100% 3 d.u./acre 12 du/acre 1.0	0-100% 12 d.u./acre <u>or 50 units</u> 25 d.u./acre 2.0	0-100% 12 d.u./acre <u>or 75 units</u> 25 d.u./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

- 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:
- Free-standing non-residential. Free-standing non-residential areas contain no residential units.

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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 50% of the building's ground floor area.
3. Pre-existing single-family residences do not constitute free-standing residential development.
4. Mixed-Use. Mixed-use areas include the footprint and land areas associated with mixed-use buildings with at least 50% of the ground floor areas allocated to non-residential uses.

G. Use Area Calculations

1. The uses of a building (residential, non-residential, mixed-use) shall be calculated by the floor area occupied by a use excluding any structured parking areas.
2. Developments that incorporate non-residential and residential uses shall clearly indicate the land areas (square footage, percentage of development site, and locations) to be used for non-residential, residential, and mixed-use, as well as the uses proposed within each of the designated areas.
3. In determining land area within any of the three use area allocations common areas, including surface water management, parking, landscaping, and circulation shall be distributed among the three use area allocations in the same proportion as the non-common areas.

H. Development Standards

1. Drive-thru facilities are prohibited.
2. Loading Docks and Service Areas.

I. All loading docks and building service areas containing air handling equipment, generators, meters, etc., shall be screened by a masonry wall from a pedestrian-level view from any adjacent residential future land use category, public sidewalk, or public street, excluding alleys.

J. Such walls shall be designed to appear as an architectural extension of the principal building and incorporate architectural trim and features consistent with the adjacent facade.

K. Walls required for screening loading docks or building service areas shall not exceed the height limitations provided in Article 5 of this code unless approved by the DCD Director.

L. On sites greater than one acre the following shall apply:

1. The first story of the building frontage shall be at least 75% of the parcel width as measured along the front property line. For adjoining parcels that are being developed simultaneously as one site with one or more buildings, this percentage applies to the combination of lots and building frontages.
2. At least 40% of the building frontage shall be built at the minimum front setback line.

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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. Office uses may only comprise 20% of the ground floor public street facing building façade.
 - d. For properties with frontages on more than one street, ground floor storefront windows shall be located on a minimum of two public streets.
 - e. No less than 30% of all upper floor street facing building facades shall have windows.
 - f. With the exception for bathroom and kitchen mirrors, windows shall be transparent; no mirror-type or dark-tinted is permitted for windows and doors in the MXB district.
 - g. Window signs are prohibited.

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- 617
- 618 h. No wall-in or window-in air conditioning units are permitted.
- 619
- 620
- 621 i. All HVAC, mechanical and electrical equipment shall not be visible from the street.
- 622
- 623 2. External access and internal circulation.
- 624
- 625 a. Drive-thru facilities are prohibited.
- 626
- 627 b. The internal vehicular circulation system must follow a pattern of intersecting streets that
- 628 provide alternative routes.
- 629
- 630 c. Points of external access and alignments of internal roadways must facilitate use of public
- 631 transit. This includes dedication of rights-of-way sufficient for bus pull-outs and bus shelters,
- 632 as well as transit easements on private streets.
- 633
- 634 d. A comprehensive pedestrian and bicycle circulation system must link all uses, with the intent
- 635 of minimizing walking distances and reducing dependence on the private automobile for
- 636 internal travel and external access; and include:
- 637
- 638 i. Pedestrian sidewalks within the rights-of-way of Cape Coral Parkway;
- 639 ii. Pedestrian pathways and bikeways within open space areas, in addition to the sidewalks;
- 640 and
- 641 iii. Safe and convenient access to retail and service uses, community and public facilities, and
- 642 public transit, carpool, or vanpool services.
- 643
- 644 3. Public facilities and utilities.
- 645
- 646 a. All utility lines must be placed underground.
- 647
- 648 b. Street lighting must be provided.
- 649
- 650 D. Green area and public use space requirements. The minimum amount of green area is 10 percent of
- 651 the gross area of the site. This green area must include the following:
- 652
- 653 1. Within the nonresidential area, a plaza for public use;
- 654
- 655 2. Within the residential area, a public park or common open space suitable for active or passive
- 656 recreation within a reasonable walking distance of any area devoted to multi-family or single-
- 657 family attached dwelling units; and
- 658
- 659 3. Street trees are required on public streets. Street trees shall be placed at a maximum of 30' on
- 660 center.
- 661
- 662 E. Outdoor sound amplification. The following regulations shall apply:
- 663

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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 amphitheaters; 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

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- c. Adequate open space for active and passive recreation that encourages public interaction.
2. To provide for access via a circulation system and pattern that encourages travel on foot and by bicycle within the neighborhood and the use of public transit for external travel, augmented by locations for automobile parking that do not inhibit such circulation.
3. To provide, where appropriate, for integration and compatibility of residential uses with commercial, office, research and development, or institutional uses.
4. To establish land use and design standards that will ensure compatibility with surrounding uses.
5. To establish standards and procedures through which the land use objectives and guidelines of an approved and adopted master or area plan serve as the basis for evaluating an individual multi-use neighborhood proposal.
6. To authorize development that is consistent or may be shown to be consistent with applicable laws, regulations, and restrictions addressing environmental protection.
- B. Where applicable. Land classified MX7 must be in an area for which an approved and adopted Use same language as above master or area plan recommends mixed use development at an appropriate scale.
- C. Location. The location of properties identified as MX7 are limited to those identified in the Seven Islands Master Plan. Properties identified as MX7 are limited to Tracts A-G, and I, and Blocks 6400-6408, Unit 76, Cape Coral Subdivision.
- D. Residential. Any type of dwelling unit as well as any accessory use is allowed, so long as the location and mix of types must be consistent with the Seven Islands Master Plan. A residential use may be intermixed with a nonresidential use or uses in the same block, lot, or building.
- E. Maximum residential dwelling units and non-residential square footage. The maximum number of residential dwelling units is 995 dwelling units, and non-residential square footage is 110,000 square feet, no less than 40,000 of which is a community center. The mix of residential dwelling units and non-residential square footage shall be in accordance with the Seven Islands Master Plan, concept D1.
- 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 or 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.

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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
 - 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

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that parking between the building and front lot line will serve the purposes of the district more effectively than an interior location.

- I. Drive-thru lanes prohibited. To encourage pedestrian-friendliness, no use may utilize drive-thru lanes in the MX7 district.
- J. Specific regulations for multi-family residences; single family attached 3 units or greater; commercial parking lots and parking garages as a standalone use; movie theaters; craft brewery, distilleries, and wineries; mobile food trucks; and home occupations are found in Article 5, Chapter 12 and 13.

Section 4.5.15. South Cape District

The South Cape District special regulations are intended to act as a stimulus to development through provisions that permit a flexible approach to infill development within the City's Community Redevelopment Area. Developments providing affordable housing are incentivized by providing greater residential density and building height than that permitted by right.

Specific conditions for multi-family residential and vehicle fueling stations are in Article 5, Chapter 12.

A. Maximum Density and Height

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 250% of Units Affordable	10/120	70

- 1. All buildings or portions of buildings within 200 feet of the R1 zoning district shall be limited to six stories or 95 feet, whichever is less.
- 2. Maximum building height shall not apply to the following building components: elevator and stair bulkheads; solar energy systems; shade devices associated with parking structures or recreational amenities; skylights or similar components associated with daylighting; and mechanical equipment, provided that such equipment is architecturally screened on all sides.

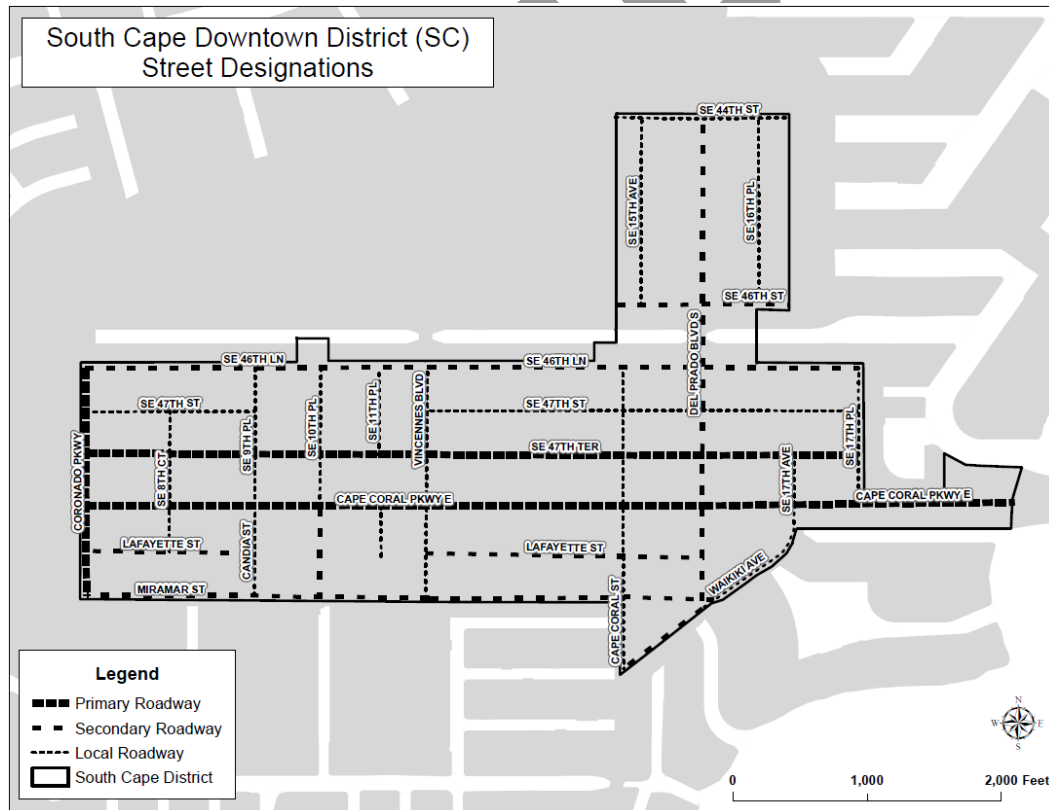
B. Standards for site design. Sites shall be designed to incorporate safe and convenient vehicular use areas and pedestrian ways, with landscape, lighting, and signage treatments intended to result in a comprehensive design.

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

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- 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.



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.

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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.

iv. If adjacent to a navigable waterway, fifteen feet

d. Variations in required in setbacks may be approved by the DCD Director to accommodate pedestrian amenities, such as public plazas, pedestrian entries, outdoor dining areas and similar public use areas, or landscaping.

3. Street Frontage Standards:

a. Parking structures or buildings elevated over surface parking lots shall have an occupied ground floor space for a minimum depth of 20 feet from the frontage lines.

b. Properties with a frontage along a primary street, residential 1st floors are permitted beyond a depth of 50 feet from the building setback. Buildings shall have a principal pedestrian entrance on a primary frontage line.

c. Properties with a frontage along a primary that abut an alley, vehicular egress shall be provided from the alley rather than a frontage line.

d. No loading docks and service areas shall be on primary street frontage lines.

e. Outdoor storage areas are not permitted on primary street frontages.

C. Parking Requirements. Parking requirements for the South Cape district can be found in Article 6.

D. Affordable Housing Density Incentive. Density incentives are opportunities offered to property owners and applicants to meet specific development goals while providing benefits to the community at large. Developers who dedicate a minimum of 20% of the total units as affordable will be eligible for increased density in accordance with Table 4.7.4.a Maximum Density and Height.

1. Location of Units. Affordable units must be provided on-site.

2. Maximum Number of Units. Developers shall not dedicate more than 50% of the total units as affordable.

3. Criteria for affordable housing. The affordable housing development incentive shall be available to a development only when an affordable housing incentive development agreement has been entered into by the applicant and the City of Cape Coral and such agreement has been approved by the City Attorney and the City of Cape Coral prior to execution. Amendments to such agreement shall be executed in the same manner as the original agreement. The affordable

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housing incentive development agreement shall include, at a minimum, the following provisions:

- a. Legal description of the land subject to the agreement and the names of its legal and equitable owners;
- b. Total number of residential dwelling units in the development;
- c. Minimum number of affordable housing units, categorized by level of household income, type of unit (condominium or rental), and number of bedrooms, required in the development;
- d. Total number of affordable housing dwelling units permitted in the development;
- e. Gross residential density of the development;
- f. Amount of monthly rent for rental units, or the price and conditions under which a condominium unit will be sold, for each affordable housing unit;
- g. The price of affordable housing units offered for rent or sale shall be based on the number of bedrooms in the unit and shall not exceed low income limits established annually by the United States Department of Housing and Urban Development for the Metropolitan Statistical Area which includes the Cape Coral downtown CRA;
- h. No affordable housing unit in the development shall be rented or sold to a tenant whose household income has not been verified as an income qualified family. Such verification shall be the responsibility of the owner and shall be submitted to the City for approval.
- i. No affordable housing unit that is to be sold, leased with option to purchase, or otherwise conveyed by the development shall be sold, leased with option to purchase, or otherwise conveyed to a buyer whose household income has not been verified and certified in accordance with this subsection as low-income family. Such verification and certification shall be the responsibility of the applicant and shall be submitted to the City for approval. It is the intent of this subsection to keep housing affordable; therefore, any person who buys an affordable housing unit must agree, in a lien instrument to be recorded with the Clerk of the Circuit Court of Lee County, Florida, that if he or she sells the property (including the land, the unit, or any combination thereof) within 15 years after his or her original purchase at a sales price in excess of 5% per year of his original purchase price that he or she will pay to the City of Cape Coral an amount equal to the sales price in excess of 5% increase per year. The lien instrument may be subordinated to a qualifying first mortgage at the option of the city. For example, a person originally buys a designated affordable housing unit for \$100,000 and sells it after five years for \$150,000. A 5% increase per year for five years will give a value of \$127,628. Deducting this amount from the sales price of \$150,000 gives a difference of \$22,372. The seller would then owe the City of Cape Coral \$22,372. Payment of this amount would release the first owner from the recorded lien against the property. Such payment shall be maintained in a segregated fund, established

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by the city solely for affordable housing purposes, and such money shall be used solely to encourage, provide for, or promote affordable housing in the City of Cape Coral;

- j. No affordable housing unit for which credit is awarded shall be occupied by the applicant, any person related to or affiliated with the applicant, or a resident manager;
- k. The applicant shall advertise, rent, sell, and maintain the affordable housing unit in a nondiscriminatory manner and make available all relevant information to any person who is interested in renting or purchasing such affordable housing unit. The applicant shall agree 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.

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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 10 and 11.

E. The minimum dwelling unit size in the South Cape District may be 500 square feet provided all requirements of the Florida Building Code are met.

Section 4.5.16. Planned Unit Development Districts (PUD)

A. A Planned Unit Development (PUD) are intended to allow 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.

B. The procedures for PUDs are provided in Article 3, Section 3.4.7.

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- Section 5.1.3. Requirements for underground utilities.
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- 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.
- Section 5.1.12. General regulations for lots, yards, and setbacks.
- Section 5.1.13. Single-family residential standards
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- Section 5.1.15. Dumpster Enclosures.
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CHAPTER 2 ACCESSORY STRUCTURES

- Section 5.2.1. General Requirements.
- Section 5.2.2. Accessory Dwelling Units (ADUs)
- Section 5.2.3. Arbors, trellises, and pergolas.
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- Section 5.2.5. Courts and playing surfaces.
- Section 5.2.6. Decks.
- Section 5.2.7. Fences and walls.
- Section 5.2.8. Flags and Flagpoles.
- Section 5.2.9. Fountains, reflecting pools, and sculptures.
- Section 5.2.10. Gazebos, sun shelters, and similar structures.
- Section 5.2.11. Guest houses.
- Section 5.2.12. Play or recreation equipment.
- Section 5.2.13. Sheds and greenhouses.
- Section 5.2.14. Solar Photovoltaic (PV) Arrays.
- Section 5.2.15. Swimming Pools.

CHAPTER 3. Land Clearing, Filling, Extraction, and Construction Sites.

- Section 5.3.1. Borrow pits; regulation of removal or extraction of dirt, soil, sand, rock, oil, gas, etc.; procedures.
- Section 5.3.2. Land Clearing, Filling, and, Excavation.
- Section 5.3.3. Construction Site Maintenance.

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CHAPTER 4. MARINE IMPROVEMENTS.

- Section 5.4.1. Purpose and Intent
- Section 5.4.2. General Requirements.
- Section 5.4.3. Dimensional Standards
- Section 5.4.4. Joint Marine Improvements.
- Section 5.4.5. Quays and mooring piles.
- Section 5.4.6. Davits, watercraft lifts, and floating docks.
- Section 5.4.7. Boathouses and canopies.
- Section 5.4.8. Bulkheads, seawalls, and retaining walls.

CHAPTER 5. LANDSCAPING

- Section 5.5.1. Purpose and intent.
- Section 5.5.2. Florida-Friendly Landscaping Program principles.
- Section 5.5.3. Applicability.
- Section 5.5.4. Exemption.
- Section 5.5.5. Conflicts.
- Section 5.5.6. Landscape plans.
- Section 5.5.7. Planting near utility infrastructure.
- Section 5.5.8. Existing trees.
- Section 5.5.9. Prohibited vegetation.
- Section 5.5.10. Quality, size, spacing, and species mix.
- Section 5.5.11. Planting in public drainage or utility easements.
- Section 5.5.12. Single-family homes and duplexes.
- Section 5.5.13. Landscaping for all development other than single-family homes and duplexes.
- Section 5.5.14. Irrigation.
- Section 5.5.15. Tree credits.
- Section 5.5.16. Landscape maintenance.
- Section 5.5.17. Planting in medians, cul-de-sacs, or roundabouts.
- Section 5.5.18. Lateral right-of-way planting.
- Section 5.5.19. Deviations.

CHAPTER 6. LIGHTING.

- Section 5.6.1. Purpose and applicability.
- Section 5.6.2. Outdoor lighting standards.

CHAPTER 7. SCREENING

- Section 5.7.1. Screening of rooftop equipment.
- Section 5.7.2. Screening of storage areas.
- Section 5.7.3. Air conditioning units and mechanical equipment.
- Section 5.7.4. Permanently installed stand-by generators.

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CHAPTER 8. NON-RESIDENTIAL DESIGN STANDARDS.

- Section 5.8.1. Purpose and Intent.
- Section 5.8.2. Applicability.
- Section 5.8.3. Exemptions.
- Section 5.8.4. Conflicts.
- Section 5.8.5. Appearance, Building Mass, and Design Treatments.
- Section 5.8.6. Wall Height Transition.
- Section 5.8.7. Building Materials.
- Section 5.8.8. Roofs.
- Section 5.8.9. Building Design Standards in the SC and MXB Districts.
- Section 5.8.10. Equipment and Loading Areas
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CHAPTER 9. TEMPORARY USES.

- Section 5.9.1. Purpose and applicability.
- Section 5.9.2. Firework, pumpkin, and Christmas tree sales.
- Section 5.9.3. Outdoor display of merchandise.
- Section 5.9.4. Garage sales.
- Section 5.9.5. Temporary construction or field office.
- Section 5.9.6. Construction staging areas and post disaster debris staging
- Section 5.9.7. Temporary sales office.
- Section 5.9.8. Temporary Storage Containers.
- Section 5.9.9. Temporary Habitable Structures
- Section 5.9.10. Special events.
- Section 5.9.11. Temporary Off-Site Vehicle Sales.
- Section 5.9.12. Tents, for other than Special Events.
- Section 5.9.13. Other events not named.
- Section 5.9.14 Temporary seawall staging areas.

Chapter 10. - SPECIFIC USE REGULATIONS (P* Uses in Table 4.4)

- Section 5.10.1. Purpose and applicability.
- Section 5.10.2. Craft breweries, distilleries, and wineries.
- Section 5.10.3. Duplexes and Single-family Semi-detached dwellings.
- Section 5.10.4. - Home occupations.
- Section 5.10.5. RV resorts
- Section 5.10.6. Micro cottage Village Development (MCVD)
- Section 5.10.7. Roadside Food and Vegetable Stand.
- Section 5.10.8. Accessory Parking Lots.
- Section 5.10.9. Solar Arrays.
- Section 5.10.10. Vehicle Sales, Light
- Section 5.10.11. Wireless Communication Facilities
- Section 5.10.12. Wireless Facility Design standards.

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Section 5.10.13. Mobile food vendor.
Section 5.10.14. Model homes.
Section 5.10.15. Building and Construction w/outdoor storage and display
Section 5.10.16. Self-Storage Facility.
Section 5.10.17 Landscaping Services w/outdoor storage and display

Chapter 11. - CONDITIONAL USES

Section 5.11.1. Purpose and applicability.
Section 5.11.2. Brewpubs.
Section 5.11.3. Attached residential of three-units or more.
Section 5.11.4. Multi-family dwellings
Section 5.11.5. Vehicle Repair, Minor
Section 5.11.6. Outdoor Screened Storage
Section 5.11.7. Laboratory – Medical, Research, Testing, and Development.
Section 5.11.8. Sporting Facilities, Indoor and Outdoor.
Section 5.11.9. Boat Sales
Section 5.11.10. Home based businesses
Section 5.11.11. Vehicle fueling stations.
Section 5.11.12. 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.

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- 183
- 184 B. The developer shall provide for the necessary costs and other arrangements for such underground
- 185 utility installation.
- 186
- 187 C. For all new buildings in the Commercial Corridor, South Cape, and PUD zoning districts all onsite
- 188 utilities including telephone, electricity, cable television, and other wires of all kinds shall be placed
- 189 underground. However, appurtenances to these systems that require aboveground installation,
- 190 including utility panel boxes, are exempt from this requirement if the appurtenances are not placed
- 191 in front yards. When such appurtenances are placed in utility easements abutting a platted alley,
- 192 they shall be placed at least ten and one-half feet from the centerline of the platted alley. These
- 193 underground requirements also apply to those improvements to non-conforming structures that
- 194 exceed the 50% thresholds as described in Article 8, Nonconformities. All utility infrastructure,
- 195 including electric utility poles and power lines, shall be concealed from public view wherever
- 196 possible. All new electric distribution lines shall be located in utility easements abutting platted
- 197 alleys and the utility poles shall be positioned so that a minimum clearance of ten and one-half feet
- 198 from the centerline of any platted alley is maintained. For properties that do not have a rear platted
- 199 alley, the electric distribution lines and utility poles shall be placed in the rear utility easement
- 200 wherever possible.
- 201
- 202 D. In the South Cape zoning district where overhead or underground utility lines have been placed in
- 203 the six-foot PUE, a property owner shall choose one of the following options:
- 204
- 205 1. Relocate the utility lines to the alley or other acceptable location, at the property owner's sole
- 206 expense, and subject to approval by the affected utility provider(s) and the City of Cape Coral;
- 207 or
- 208
- 209 2. Place a concrete sidewalk or architectural elements on the front six-foot property setback. If
- 210 overhead electric lines are in place, no awnings, canopies, balconies, colonnades, arcades, or
- 211 front porches may be constructed forward of this line even if otherwise required by this code.
- 212 If underground lines of any type are in place, the property owner is solely responsible for
- 213 repairing any damage to lawful encroachments into the six-foot easement resulting from
- 214 maintenance or improvements to utility lines.
- 215

216 **Section 5.1.4. Access required.**

217

218 Except as otherwise provided, all building sites shall have access on a street or a road shown on an

219 approved and recorded final plat. One or more buildings may have no direct access to a street provided

220 that the approving authority finds that such building site(s) have adequate indirect access to a street such

221 as a recorded easement or right-of-way through or over another parcel. The city may prohibit direct access

222 from a parcel or building site to a street when the approving authority finds that prohibition of direct

223 access would promote the public health, safety, and welfare based on factors including traffic or

224 transportation safety and when the parcel or building site could be afforded indirect access to a street or

225 other road via another parcel or building site.

226

227 **Section 5.1.5. Protection of underground pipelines and utilities.**

228

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- 229 A. Intent. It is the intent of the City Council to protect underground pipelines and utilities from
230 destruction or damage to prevent:
231
232 1. Death or injury to persons;
233
234 2. Property damage to private and public property; and
235
236 3. Loss of essential pipeline or utility services to the general public.
237
238 B. All excavation on public property, rights-of-way, or dedicated easements shall comply with the
239 requirements of F.S. 556. **UNDERGROUND FACILITY DAMAGE PREVENTION AND SAFETY.**
240
241 C. Penalties for violation. Any person violating this section shall be punished as provided in the Code
242 of Ordinances of the City of Cape Coral.
243

244 **Section 5.1.6. Protection of easements.**
245

- 246 A. In the R-1, RML, RE, and A zoning districts, the six-foot easement around the perimeter of sites shall
247 be preserved and nothing shall be placed or constructed on such easements other than a paved
248 driveway, walkway, sidewalk, fences, or well. In addition, for non-residential uses lawfully located
249 in residential zoning districts, paved off-street parking areas may be placed or constructed on the
250 six-foot easement around the perimeter of the site.
251
252 B. In the RMM zoning district, where lot depth is greater than 131 feet, the six-foot easement around
253 the perimeter of the sites shall be preserved and nothing shall be placed or constructed on such
254 easement other than a paved driveway, walkway, sidewalk, paved off-street parking areas, or a well
255 when site conditions make it impractical to locate elsewhere. On sites with a depth of less than 131
256 feet, paving of the front easement for parking purposes shall be permitted.
257
258 C. Lawn sprinkler systems and landscaping may be placed in the 6' PUE easements as permitted by the
259 Code of Ordinances or the Land Development Code.
260
261 D. In the C, CC, I, INST, MXB, MX7, NC, P, and SC zoning districts, paved off-street parking areas, paved
262 driveways, sidewalks, wells, walkways at ground level, lawn sprinkler systems, or landscaping may
263 be placed in an easement provided that all other requirements of the Code of Ordinances or the
264 Land Development Code are met.
265
266 E. Nothing in this section shall prohibit the construction of seawalls, davits, docks, or other structures
267 as permitted by the Cape Coral Code of Ordinances.
268
269 F. If a utility removes, damages, or disturbs the construction or other material within an easement as
270 allowed by this section, the property owner shall be responsible for the cost of its removal,
271 relocation, repair, or replacement. If any plant material in an easement required by Chapter 5 of
272 this Article of the Land Development Code is removed or damaged, the property owner shall replace
273 all such material within 30 days of the completion of the utility work. These requirements also
274 include repair or replacement of sod within the right-of-way. In addition, prior to issuing a permit

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to locate, place, construct, or install any structure, construction, driveway, or other material in an easement, the city may require the property owner to agree to indemnify and to hold the city harmless from any or all costs or expenses incurred as a result of such location, placement, construction, or installation in the easement.

- 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 or mixed-use zoning districts (C, CC, I, INST, MXB, MX7, NC, P, and SC) right-of-way improvements (including sidewalks) 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, 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, 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%

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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.

- E. 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. New residential subdivisions and Planned Unit Developments of 20 or more lots or units and multi-family development of 50 or more units shall install sidewalks along all street frontages abutting and within the development. This does not apply to existing structures that are being remodeled or repaired.

Section 5.1.9. Work in the Public Right-of-Way and Public Utility Easements

- A. General. Except as provided below, no construction, change, modification, or alteration of any type or nature whatsoever, including the addition or removal of fill, vegetation, or other materials, or the placement, installation, or erection of any object or vegetation, shall be allowed within a city-owned right-of-way or swale, except as provided in Chapter 1 of this Article.
- B. No permit required. The following work or activities shall be allowed in the public right-of-way or roadway easement areas without the necessity of a city permit:
1. Trimming, cutting, or maintenance of trees, shrubs, and other vegetation existing as of the effective date of this ordinance in the public rights-of-way or swales;
 2. Markers, commonly known as buttons, turtles, or half-moons, may be placed 18 inches from the edge of the pavement in residential zoning districts provided that such markers shall not exceed a height of four inches. However, no markers shall be placed within any public right-of-way which is adjacent to a roadway with four or more lanes;
 3. Mailboxes may be placed in the public rights-of-way or swales so long as they are in accordance with the City of Cape Coral Engineering Design Standards. The mailbox may be immediately surrounded by a small bed consisting of landscape edging materials or concrete curbing, bedding plants or groundcover, and mulch or decorative rock provided that such decorative rock shall not exceed four inches when measured in any direction, pursuant to Chapter 5 of this Article. In no event shall the diameter of the plant bed exceed two feet

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when measured from the outer-most edges of any landscape edging material or concrete curbing utilized. and

4. A Registration Certificate is required to install landscaping material in the lateral right-of-way areas between the roadway pavement and the private property line in accordance with Section 5.5.19 of this Article.

C. Permit required. The following work or activities shall be allowed in the public right-of-way or roadway easement areas provided that the property owner first obtains a permit from the city:

1. Culvert installation and appurtenant work;
2. Sod installation and appurtenant work;
3. Driveway installation and appurtenant work;
4. Curb, gutter, sidewalk, sod, and paving;
5. 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. Planting in medians, cul-de-sacs, and roundabouts as permitted in 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.

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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 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 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 damage must be repaired to meet or exceed the City of Cape Coral 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:
 - 1. The front of any building site shall be determined by the lesser dimension of a single lot (not building site). This frontage shall have the established setback for the particular zoning district, but in no instance be less than 25 feet.
 - 2. The remaining street frontage shall have a setback of no less than ten feet in all zoning districts. The remaining street frontage shall be maintained as a front yard and the regulations for fences, shrubbery, and walls of this ordinance shall apply.

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3. On sites bounded by three streets, one lot line shall be designated by the Director as the rear and maintained as the rear setback of that zoning district. For purposes of this section, all but the rear yard shall be maintained as a front yard and the regulations for fences, shrubbery, and walls of this ordinance shall apply.

4. The front of a single-family residential building shall not be offset from the front property line by an angle greater than 45 degrees.

- C. No parcel shall be reduced below the minimum dimensional requirements in the zoning district. This provision shall not apply when a portion of a parcel is acquired for a public purpose.

Section 5.1.13. Single-family residential standards

In addition to all other provisions of this Code, single-family residential uses shall be subject to the following requirements.

- A. In the A, R1, and RE zoning districts only one single family residence shall be permitted per parcel.

- B. Ornamental walls. Ornamental walls attached to the principal building shall have the following requirements

1. Ornamental walls shall not be higher than four feet at any point where they extend beyond the roof overhang and into the side setback.

2. Ornamental walls may extend into the side setback but shall not extend into the six-foot perimeters easements.

3. An ornamental wall not to exceed 30 inches in height may be installed in the front yard.

4. Ornamental walls may be in the form of a planter.

4. A planter may be incorporated into the construction of a wingwall.

- C. Water discharge. All gutter downspouts or similar water discharge devices shall direct the discharge to the front or rear property lines. Refer to the City of Cape Coral Engineering Design Standards, Section L, Drainage Design Standards for lot grading and drainage information.

- D. For single-family or duplex construction activities on any site in a Special Flood Hazard Area, the maximum amount of fill on-site shall be limited to 12 inches, unless otherwise approved by the Building Official.

Section 5.1.14. Multi-family residential.

In addition to other provisions of this ordinance, single-family attached structures, duplexes, and multi-family residential uses shall be subject to the following requirements.

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A. Distance between buildings.

1. Clustered buildings. Buildings may be constructed on proper building sites in cluster style providing a minimum of 20 feet is maintained between the buildings up to a height of 38 feet.

- a. One foot shall be added to the 20-foot distance for every foot of height increase over 38 feet.

- b. Carports will not be considered in determining the 20-foot distance between buildings.

B. Water discharge.

1. All gutter downspouts or roof drains from multi-family buildings shall be directed to the water management system.

2. All gutter downspouts or similar water discharge devices from duplexes shall direct the discharge to the front or rear property lines. Refer to the City of Cape Coral Engineering Design Standards, Section L, Drainage Design Standards for lot grading and drainage information.

C. Maximum Fill. For duplex construction activities on any site in a Special Flood Hazard Area, the maximum amount of fill on-site shall be limited to 12 inches, unless otherwise approved by the Building Official.

Section 5.1.15. Dumpster Enclosures.

Except where noted below, all sites with uses other than single-family residences and duplexes, shall provide commercial trash receptacles in accordance with the regulations in this section.

A. Screening.

1. Except for the SC and MXB Districts, when commercial trash receptacles are in a rear yard that abuts an alley, all commercial trash receptacles shall be enclosed from view on at least three sides by an opaque visual barrier.

2. When a commercial trash receptacle is visible from an adjacent property or an adjacent street, at ground level, then the commercial trash receptacle shall be enclosed on the fourth side by an opaque gate that shall be the same height as the opaque visual barrier on the other three sides.

3. The principal structure may be used as the opaque visual barrier on one or more sides provided the commercial trash receptacle is completely concealed from view.

B. Materials.

1. The following materials, either singly or in any combination, are the only materials that may be used for the opaque visual barrier and gate:

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- 548 a. Wood fencing;
549
550 b. Plastic or vinyl fencing;
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

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- D. Dimensions. The dumpster enclosure shall have a minimum interior dimension of ten feet by ten feet and a height at least six inches higher than the enclosed commercial trash receptacle. Neither the dumpster enclosure or the gate providing access to the commercial trash receptacle shall be considered a fence or a wall pursuant to the City Code of Ordinances or Land Development Code.
- E. All dumpster enclosures shall be located so that a sanitation vehicle has physical access to the commercial trash receptacle that is adequate for safely servicing the facility.
- F. Each commercial trash receptacle shall be located on a concrete pad.
- G. All solid waste or other refuse, including recycling materials stored in commercial trash receptacles, shall be concealed by a lid attached that shall remain in the closed position unless materials are being placed into the receptacle or the receptacle is being serviced. No material shall be permitted to overflow the receptacle.
- H. In the event a commercial trash receptacle is in a dumpster enclosure that includes a gate, regardless of whether such a gate would have been required pursuant to this section, the gate shall be of a type that opens sufficiently to allow unimpeded access to the trash receptacle by the sanitation vehicle and shall have drop pins, hooks, or other devices installed to hold the gate open while the receptacle is being serviced. All gates shall remain closed unless the receptacle is being serviced.
- I. Deviations. In the event an owner is unable to comply with the requirements of this section, the owner may request an administrative deviation from the Director. In determining whether to approve an administrative deviation, the Director shall consider factors such as dimensions of the property, site constraints such as existing development, or other location factors that may make compliance with this section impossible or impractical. The determination to approve an administrative deviation shall be at the sole discretion of the Director.
- J. Maintenance. Commercial trash containers shall be maintained in a manner which is not a nuisance to surrounding uses.
1. The receptacle shall be stored in the enclosure and the gate(s) to the enclosure shall remain closed at all times unless it is being accessed at that time.
 2. Refuse may not be left outside of the enclosure or on the ground within the enclosure.

Section 5.1.16. Outdoor seating and dining.

Outdoor seating and dining may be permitted as an accessory use to a restaurant, hotel, bar, or fraternal organization provided the following conditions are met:

- A. All outdoor seating:
1. Music may be permitted to be performed or amplified in outdoor seating areas, in accordance with Section 12-22 of the City's Code of Ordinances, or in accordance with a permit per Chapter 9 of this Article.

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- 639
- 640 2. Parking shall be provided at a rate of 1 parking space per 4 seats of outdoor seating are, except in
- 641 the SC, MX7, or MXB zoning districts, where no additional parking is required.
- 642
- 643 3. Outdoor seating in common areas, such as shopping centers, must have written authorization
- 644 from the property owner.
- 645
- 646 4. A sidewalk dining permit is required for all outdoor seating areas.
- 647
- 648 5. Stanchions or other features may be used to delineate outdoor seating areas.
- 649
- 650 B. Outdoor seating on public rights-of-way and City owned parking lots .
- 651
- 652 1. The number of outdoor seats and tables shall be limited to that number that can be reasonably
- 653 accommodated according to the available widths of the associated storefront and sidewalk or
- 654 patio area. Only the area(s) adjacent to the associated storefront may be used for outdoor seating.
- 655 No fixtures or furniture may be attached to the right-of-way or public property.
- 656
- 657 2. Clear pedestrian access shall be maintained at all times, and no seating or tables shall interfere
- 658 with ingress and egress to buildings or create an unsafe situation with street traffic.
- 659
- 660 3. The owner or operator of the outdoor seating area shall remove any seating or tables when
- 661 necessary for special events or when an authorized agent of the city makes such a request.
- 662
- 663 4. Public sidewalks adjacent to any approved outdoor dining area shall be properly maintained for
- 664 safety and cleanliness by the owner or operator on a daily basis. Litter, dirt, grime, grease, and
- 665 food shall not be permitted to accumulate at any time. The sidewalk must be cleaned by pressure
- 666 washing on a regular basis or when an authorized agent of the city makes such a request.
- 667
- 668 5. Portable lighting may be used in the outdoor seating area. Extension cords may not be run from
- 669 any nearby buildings. The use of generators is prohibited. City light poles may not be used for
- 670 electrical connections. Portable heaters may be used if approved by the Fire Department.
- 671
- 672 6. Umbrellas shall not have any signs or advertising.
- 673
- 674 7. An indemnity agreement, provided by the director of Community Development shall be signed
- 675 and provided by the sidewalk café owner or operator, along with proof of public liability insurance
- 676 as approved by the city attorney.
- 677

Section 5.1.17 Mixed-use Buildings

- 678
- 679
- 680 A. The minimum dwelling unit size in mixed-use buildings shall be 500 square feet provided all
- 681 requirements of the Florida Building Code are met.
- 682
- 683 B. The non-residential design standards set forth in Article 5, Chapter 8 shall apply to all mixed-use
- 684 buildings

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CHAPTER 2 ACCESSORY STRUCTURES

Section. 5.2.1. General Requirements.

- 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.
- G. All nonconforming accessory structures shall be subject to the requirements of Article 8 Nonconformities.
- H. Any accessory structure not listed in this chapter may be reviewed and considered for approval through a similar use determination process.
- I. In non-residential districts, all accessory structures shall be reviewed and held to the same standard as a non-residential structure.
- J. Setbacks shall be measured from the property line and must be considered in addition to all other locational requirements.

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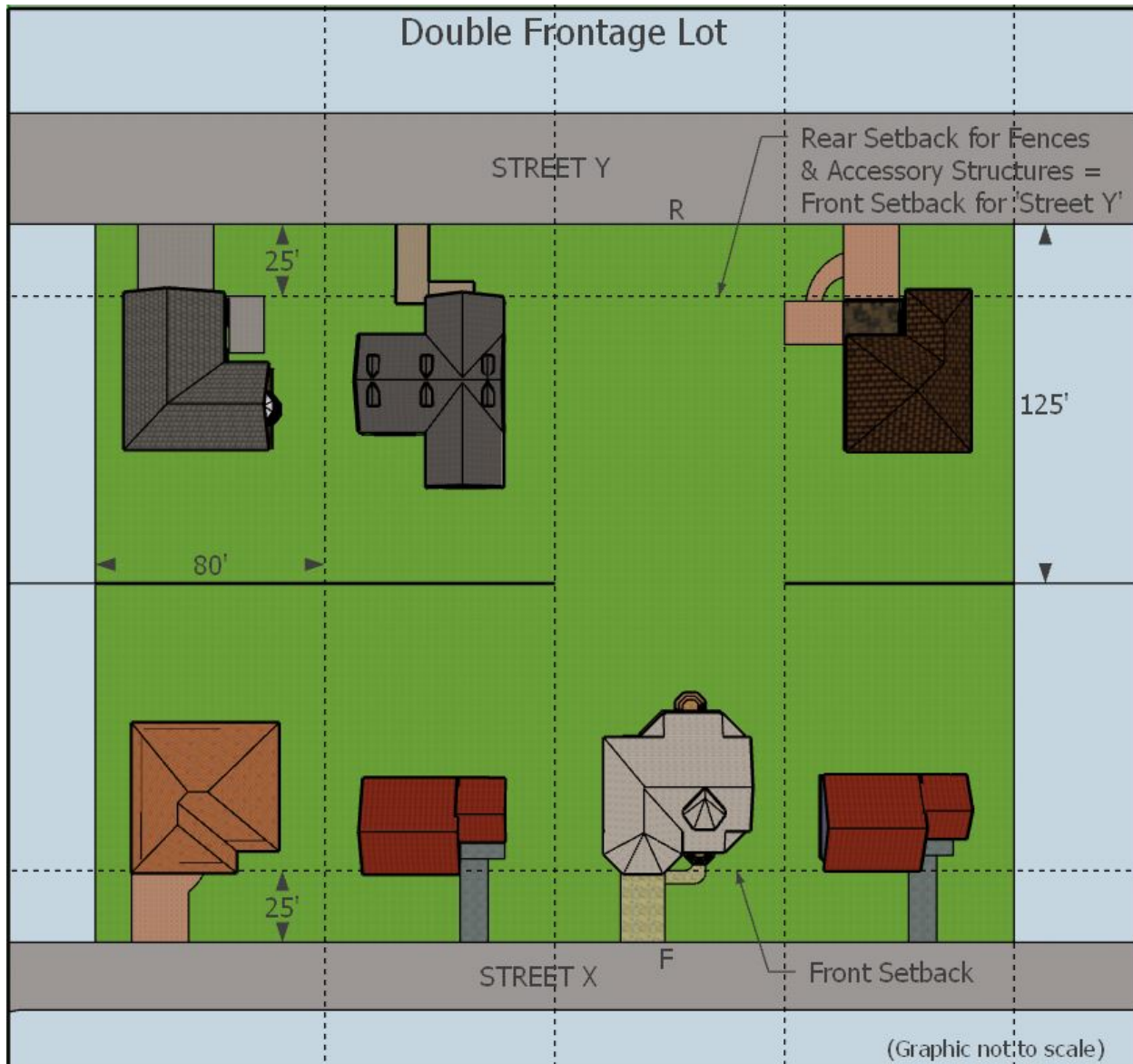
Table 5.2.1.A. Setback Requirements for Accessory Structures.

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

Diagram 5.2.1.B Double Frontage Lot Fence and Accessory Structure Requirements.

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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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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.
4. No new access points or driveways shall be created or installed for access to the ADU.
5. The accessory dwelling may contain no more than a living area, one bedroom, one bath, and a kitchen.
6. The owner of the property shall live in the principal dwelling or the ADU.

B. ADUs within a single-family dwelling shall comply with the following:

1. There shall only be one entrance to the front of the house. Separate entrances to an ADU are permitted at the side or the rear of the principal dwelling unit.
2. If the ADU and the principal residence are on the same floor or story, the ADU shall be limited to 30 percent of the total living area of the principal dwelling or 800 square feet, whichever is less. If the ADU is on a single floor or story and there is no increase in the size of the house, the entire floor or story may be used for the ADU.

C. Detached structures serving as an ADU shall comply with the following:

1. May not exceed one story.
2. Must comply with the zoning district dimensional regulations.
3. Maximum building height shall not exceed 14 ft.
4. May not exceed 30 percent of the area of the primary structure or 800 square feet, whichever is less.

Section. 5.2.3. Arbors, trellises, and pergolas.

- A. Arbors, trellises, and pergolas shall be allowed as freestanding or attached structures. There is no limit on the number of attached pergolas, arbors, and trellises per primary structure.
- B. Freestanding pergolas and arbors are limited to 200 square feet of coverage per single-family detached residential property. Freestanding pergolas and arbors are limited to 100 square feet per unit of a duplex property.
- C. The amount of freestanding square footage coverage for multi-family residential developments may be determined by the Community Development Director. The criteria for this determination include:
 1. Design, size, location, and number of proposed arbors, trellises, and pergolas;

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2. Design, size of property, location, and number of units of the multi-family residential development; and

3. Whether the structure will be contrary to the public interest.

D. Attached pergolas.

1. Attached pergolas may be placed over the front entrance or walkway into a residence and must not extend beyond the most forward portion of the primary structure.

2. A pergola is considered attached if a minimum of 20% of the pergola's perimeter is attached to the primary structure.

3. A pergola that is attached to a previously-attached pergola is considered to be an extension of the original attached pergola; the enlarged pergola must abide by the setback requirements listed in Table 5.2.1.A.

E. Pergolas, generally.

1. Pergolas must conform to all zoning requirements in terms of height and setbacks.

2. The only exception to the prohibition of the placement of a pergola in the rear setback is for pergolas on docks.

3. If placed in the rear yard of a waterfront property, or on a dock, pergolas must not unreasonably restrict or block the view of the canal or waterway of an adjoining lot.

Section. 5.2.4. Attached and detached garages.

A. All single-family detached and each unit of a duplex structures shall include a garage with minimum dimensions of 14 feet by 20 feet. Carports are prohibited on single-family detached and duplex residential properties requiring a garage.

B. For attached garages, the following shall apply:

1. A garage shall be considered attached if it shares at least a five-foot length of common wall with the principal structure. The common wall shall include an internal access door to the principal structure. Attachment through a roof or breezeway structure only shall not be adequate to consider the garage attached.

2. For purposes of this LDC, an attached garage shall be considered to be a part of the principal structure and shall comply with all district regulations for the zoning district in which it is located.

3. An operable garage door capable of providing access to the garage by a motor vehicle is required.

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831 4. A driveway providing vehicular access to the garage is required and shall be constructed and
832 maintained in a condition that is safe and free of potholes, and in accordance with the City of
833 Cape Coral Engineering Design Standards.

834
835 5. The garage shall not be included in determining the living area.

836
837 6. No garage or storage area shall be used as living quarters unless another garage is constructed
838 prior to conversion.

839
840 C. For detached garages, the following shall apply:

841
842 1. A detached garage shall meet all of the setback requirements of the principal structure.

843
844 2. A detached garage shall be on the same parcel as the principal structure.

845
846 3. A detached garage shall not exceed 1,000 square feet in area.

847
848 4. The height of a detached garage shall not exceed 14 feet in height when measured according to
849 the definition of "building height" in the Land Development Code.

850
851 5. An operable garage door capable of providing access to the garage by a motor vehicle is required.

852
853 6. The maximum size and height restrictions shall not apply in the RE district.

854
855 7. No plumbing shall be allowed in a detached garage except that a single one-compartment sink
856 shall be allowed.

857
858 8. The exterior building materials of a detached garage shall conform to the exterior building
859 materials of the principal structure.

860
861 9. A parcel may contain both an attached and detached garage, but only one detached garage shall
862 be permitted.

863
864 **Section. 5.2.5. Courts and playing surfaces.**

865
866 A. Requirements in the R1, RE, RML, and A districts.

867
868 1. Lighting is prohibited on all outdoor recreation facilities on all properties containing single-family
869 detached and duplex dwellings.

870
871 2. An opaque landscape hedge shall be planted between a recreational facility and a side or rear
872 property line of different ownership. The landscaping shall be maintained at a minimum of four
873 feet in height and shall be provided along the entire length of the recreational facility.

874
875 B. Requirements in the RMM or other districts with permitted multi-family uses.

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1. Lighting may be installed to allow evening use of the facility. All outdoor lighting shall be installed and maintained in such a manner that the light falls substantially within the perimeter of the property through the use of shielding and limitations on intensity. In no instance shall the facility lighting create glare off of the property exceeding 0.3 footcandles which impacts any roadway. Directional lighting may not be installed which shines directly into any dwelling unit.
2. An opaque landscape buffer, a minimum of four feet in height, shall be installed which shields the recreational facility from any adjacent right-of-way. Fencing may be installed to a maximum height of ten feet.

Section. 5.2.6. Decks.

- A. Decks extending into rear or side yard may not exceed a height of 30 inches above grade. Decks over 30 inches in height shall meet all setbacks.
- B. Deck height shall be measured from the walking surface of the deck, not the railing.
- C. Railing shall be spaced in such a way as to allow air and light to pass through.

Section. 5.2.7. Fences and walls.

A. General Requirements.

1. All fences shall be of sound construction and not detract from the surrounding area.
2. No barbed wire, spire tips, sharp objects, or electrically charged fences shall be erected, except as otherwise provided herein. This shall not be interpreted to mean that bona fide agricultural users cannot use barbed wire or electrically charged fences to control livestock when located in districts permitting the raising, keeping, or breeding of livestock.
3. No fences shall be placed within the visibility triangle.
4. If a fence or wall is located in a public utility or drainage easement, the property owner shall be solely responsible for removal of the fence or wall as well as for any cost resulting from disturbance, damage, or destruction of the fence or wall resulting from work associated with utilities or drainage facilities, including those related to alley improvements within such easement.
5. No fence shall enclose any utility meter, including water and electric service meters. The location of any utility meters shall be shown in the permit application. This restriction shall not apply to city maintained or constructed facilities.
6. Unless the posts or other supports used in connection with the fence or wall are visible from and identical in appearance from both sides of the fence, all posts or other supports used in connection with the fence or wall shall be on the side of the fence or wall that faces the property 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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the fence is "finished", then the "finished" side of the fence shall face outward toward the street or adjoining property (facing away from the property on which it is erected). The "finished" side of the fence shall be the side that is painted, coated, or smoothed so as to be more decorative in appearance.

7. Fencing for critical public utilities infrastructure, including water and wastewater facilities and electric and natural gas facilities, which may enclose either an entire site or only an area containing equipment, may be maintained at a height of eight feet. Barbed wire, spire tips, sharp objects, or electrically charged fencing are permitted on the top of fencing around critical infrastructure sites or equipment, however, the height of the fencing together with any barbed wire, spire tips, sharp objects, or electrically charged fencing may not exceed eight feet, and only the top two feet may contain barbed wire, spire tips, sharp objects, or electrically charged fencing.
8. A fence shall not be constructed on unimproved property.
9. No wall or fence of any kind whatsoever shall be constructed on any lot until after the height, type, design, and location has been approved in writing and proper permit issued by the Director.
10. 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. For sports other than diamond sports, backstops may be increased to a height of 12 feet. All fencing at recreational facilities must be constructed of at least nine-gauge fence fabric and schedule 40 tubing.
11. A may be maintained at a height greater than otherwise allowed herein if a higher fence height is required by the city for the purpose of screening a special exception use.
12. A fence or wall shall be constructed of one or more of the following materials or finishes:
 - a. Wood (decay resistant or pressure treated only), shall be painted or stained;
 - b. Concrete block with stucco (CBS);
 - c. Reinforced concrete with stucco;
 - d. Stone or brick, including cast (simulated) stone or brick;
 - e. Concrete;
 - f. Wrought iron;
 - g. Aluminum;
 - h. Plastic or vinyl; or

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- i. Galvanized steel privacy panels painted with alkali-resistant coatings. Alkali-resistant coatings include heavy-bodied bituminous paint or methacrylate lacquer.

All other finishes and materials are prohibited.

13. For fences or walls located in a public utility or drainage easement, only the following materials or finishes are permitted:

- a. Wood (decay resistant or pressure treated only);
- b. Aluminum;
- c. Chain-link without slats;
- d. Plastic or vinyl; or
- e. Galvanized steel privacy panels painted with alkali-resistant coatings. Alkali-resistant coatings include heavy-bodied bituminous paint or methacrylate lacquer.

14. 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.

15. Maintenance. All fences shall be properly maintained, in accordance with the International Property Management Code Sec. 304.2 Protective Treatment, as referenced by Article 12, Section 12.1.C of this code.

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.

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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.

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, 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.

- 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

- 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.

E. Industrial zoning district:

1. Maximum height: eight feet.
2. Required setbacks: none, except that fences shall be setback 10' from alleys.
3. Fencing shall provide an opaque visual barrier, constructed of materials which conform to applicable codes, to conceal storage areas.

F. Agricultural zoning district:

1. Maximum height: eight feet.
2. Required setbacks: none.

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G. Institutional zoning district:

1. Maximum height: eight feet.
2. Required setbacks: none, except that fences shall be setback 10' from alleys.
3. Fencing shall provide an opaque visual barrier, constructed of materials which conform to applicable codes, to conceal storage areas.

H. Preservation zoning district:

1. Maximum height: eight feet.
2. Required setbacks: none.

I. South Cape and MXB zoning district(s):

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

Section.5.2.8. Flags and Flagpoles.

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- 1095
1096 A. Residential zoning districts or sites with residential uses shall be limited to no more than two flagpoles.
1097
1098 B. In non-residential zoning districts, in mixed use zoning districts, and on sites containing non-
1099 residential uses in residential zoning districts, no more than three flagpoles are allowed on a site.
1100
1101 C. Flagpoles shall not exceed 35 feet in height other than those on non-residential properties abutting
1102 Pine Island Road which shall not exceed 80 feet in height.
1103
1104 D. The installation of a flag standard on a site does not require a permit. The number of flags that may
1105 be displayed on a flagpole or on a single flag standard is not limited.
1106
1107 E. For the purposes of this article, flags on non-residential, private property which contain a symbol
1108 other than that of a nation, government, political subdivision, or other entity shall be presumed
1109 commercial; however, it shall be considered a rebuttable presumption, which may be overturned by
1110 the Director if the evidence contradicting it is true or if a reasonable person of average intelligence
1111 could logically conclude from the evidence that the presumption is not valid.
1112

1113 **Section. 5.2.9. Fountains, reflecting pools, and sculptures.**
1114

- 1115 A. Fountains and sculptures shall not to exceed 12 feet in height.
1116
1117 B. Reflecting pools greater than 24 inches in depth deep shall be fenced for safety.
1118

1119 **Section. 5.2.10. Gazebos, sun shelters, and similar structures.**
1120

- 1121 A. Gazebos, sun shelters, and similar structures on residential single-family detached or duplex parcels
1122 may not exceed 150 square feet in roof coverage. The total area of all such structures shall not exceed
1123 300 square feet.
1124
1125 B. All structures in all other zoning districts may not exceed 300 square feet.
1126
1127 C. The maximum height shall not exceed 14 feet above grade from the lowest point of the grade under
1128 the shelter, including overhangs.
1129
1130 C. These structures shall not be constructed within six feet of any rear lot line except on waterfront lots
1131 where sun shelters are permitted to be constructed on docks. These structures shall not overhang the
1132 edges of the dock or be constructed over an easement.
1133

1134 **Section. 5.2.11. Guest houses.**
1135

- 1136 A. Detached structures serving as a guest house shall comply with the following:
1137
1138 1. Guest Houses shall only be on constructed on sites with a principal residential dwelling unit.
1139
1140 2. May not exceed one story.

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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.

A. On residential single-family detached and duplex properties, the City shall not be responsible for permitting and inspection of play equipment.

B. Play equipment for other than single-family detached and duplex properties must be permitted and inspected prior to any use.

Section. 5.2.13. Sheds and greenhouses.

A. The maximum height of a shed or greenhouse shall not exceed 15 feet in overall height.

B. The maximum floor area shall not exceed 200 square feet.

C. Sheds and greenhouses are allowed in the R1, RML, RE, and A districts.

D. A lot may contain no more than one shed and one greenhouse.

E. Sheds and greenhouses may be within the side yard of a parcel so long as the shed or greenhouse is screened. Screening is required for that portion of the wall of the shed or greenhouse that is visible from the right-of-way and the nearest adjoining residential property. A wall, fence, shrubs, or a combination thereof may be used to meet screening requirements as follows:

1. If an opaque wall or fence is used for screening, the wall or fence shall be six-feet in height. The wall or fence may be constructed of wood, vinyl, or a material that has the appearance of wood or vinyl, or the wall may be masonry, but not be unfinished concrete block. All other materials are prohibited. A screening wall with a continuous foundation may not encroach into any easement.

2. Alternatively, sheds or greenhouses may be screened with shrubs that meet the following requirements:

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- 1187 a. A row of shrubs planted along both sides of the shed and extend at least five feet beyond the
1188 walls of the shed or greenhouse.
1189
- 1190 b. All shrubs required for screening within this subsection shall be a minimum of 32 inches in
1191 height and be in at least a seven-gallon container size at the time of planting. All shrubs shall
1192 be planted no more three feet apart as measured on center.
1193
- 1194 c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be
1195 maintained in good condition as long as the shed requires screening pursuant to this
1196 subsection.
1197
- 1198 3. A shed or greenhouse that would be visible from the right-of-way or from the nearest adjoining
1199 property, but for an existing fence, wall, or landscaping that shields the shed or greenhouse is
1200 exempt from additional screening requirements. In the event the screening is removed or altered
1201 to cause the shed or greenhouse to be visible from the right-of-way or nearest adjoining property,
1202 the shed or greenhouse shall be screened in accordance with those requirements outlined above
1203 or moved to fully comply with this Section.
1204
- 1205 4. On a double frontage lot, sheds or greenhouses shall be screened from view from rights-of-way
1206 and adjoining properties. See Diagram 5.2.1.B. Double frontage lot fence and accessory structure
1207 requirements.
1208
- 1209 5. On double frontage lots, sheds or greenhouses in the rear yard shall be setback to a distance
1210 equivalent to the front setback of any adjacent lots that are not double frontage lots.
1211

1212 **Section. 5.2.14. Solar Photovoltaic (PV) Arrays.**
1213

1214 A. General requirements.
1215

- 1216 1. Permitted accessory equipment. Rooftop photovoltaic solar systems shall be deemed permitted
1217 accessory equipment for all buildings in all zoning categories. Nothing contained in this chapter
1218 shall be deemed to prohibit the installation of rooftop photovoltaic solar systems on buildings
1219 containing legally nonconforming uses.
1220
- 1221 2. Maintenance. The photovoltaic system shall be properly maintained and be kept free from
1222 hazards, including faulty wiring, loose fastenings, or being maintained in a condition that is unsafe
1223 or detrimental to public health, safety, or general welfare.
1224
- 1225 3. Abandonment. Abandoned or unused freestanding solar energy systems not in use for a period
1226 of 18 months shall be removed at the owner's expense.
1227

1228 B. Building-mounted PV systems.
1229

- 1230 1. Roof mounted:
1231

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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.

c. To the maximum extent possible, wall mounted PV arrays shall be designed as compatible to the structure and surface to which it is attached.

C. At-grade PV systems.

1. Exemptions. The restrictions of this Subsection with respect to height, location, and setbacks are not applicable to any accessory component to a freestanding outdoor lighting fixture, telephone pole, parking meter, or any other similar structure, as determined by the city.

2. Height. The maximum height of any at-grade PV array shall not exceed twelve feet, except for residential locations, as established in subsection 3., below.

3. Residential location. For PV arrays in or abutting residential zoning districts, the following requirements apply:

a. PV arrays up to six feet in height are allowed;

b. PV arrays shall be setback at least seven and one-half feet from interior side property lines and 10' from rear property lines;

c. PV arrays are not allowed within the front setback or front yard of a residentially zoned property; and

d. The area of the solar collector surface of freestanding solar energy systems shall not exceed five percent of the lot area.

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4. Commercial location. For PV arrays in non-residential zoning districts and not adjacent to residentially zoned property, at-grade PV systems must meet all setback requirements for a structure within the zoning district.

5. The supporting framework for freestanding solar energy systems shall not include unfinished lumber.

Section. 5.2.15. Swimming Pools.

A. Location of pools; fencing, safety rails; solar screens.

1. The construction of a swimming pool, spa, or hot tub is prohibited in the front or side of any single-family or duplex residential structure, except as permitted in the RE district on parcels of 3 acres or larger. All residential swimming pools, spas, or hot tubs shall be enclosed by screening. The pool area or the entire back yard shall be enclosed with a minimum four-foot high fence. When fencing a waterfront yard, the fence shall extend to and no further than the water side of the seawall cap, otherwise the fence shall extend across the back yard to the rear of the swimming pool. This fencing or enclosure must be completed before the pool is filled with water over 24 inches in height and before a final inspection.

2. Swimming pools, unroofed pools, enclosed pools, or screen enclosures only with open-mesh screening shall be placed at the rear of the principal structure only, and not less than ten feet from the rear property line of any residential parcel. Pools, enclosed pools, or screen enclosures may not extend more than ten feet beyond the side of the structure or into required side setbacks. Any part of a pool or screen enclosure covered by a roof or enclosed by side walls over six feet in height shall be subject to the limitations regarding location of the structure. The minimum distance requirement from a lot line shall be measured from the exterior of the screen enclosure for a screen enclosure or an enclosed pool and from the waterline of an unenclosed pool. In no instance shall any pool, pool enclosure, or screen enclosure, be placed within a utility or drainage easement.

- B. In the event that the swimming pool, spa, or hot tub is secured by a screened enclosure or permanent fence and the screened enclosure or permanent fence is damaged by a fire, accident, or severe weather event such as a hurricane, to the extent that the screened enclosure or permanent fence is no longer securing the swimming pool, spa, or hot tub, then a temporary mesh safety barrier that meets the minimum requirements set forth in subsection .1B.2. above shall be installed to secure the swimming pool, spa, or hot tub.

The temporary mesh safety barrier shall be installed as soon as practical but in no event more than ten days after such fire, accident, or severe weather event.

The temporary mesh barrier may remain in place for a period not to exceed 90 days after the fire, accident, or severe weather event. The Director of the Department of Community Development, may extend the time period stated herein upon satisfactory evidence that the property owner has contracted with a licensed contractor to replace the screened enclosure or permanent fence that was damaged by the fire, accident, or severe weather event.

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- 1323
- 1324 C. All swimming pools shall have adequate safety rails. When swimming pools are constructed in front
- 1325 or at the side of a single-family attached or multi-family dwelling of three or more units, an opaque
- 1326 or semi-opaque screen not less than four feet nor more than six feet in height shall be erected in
- 1327 addition to the fence or screening requirements of § 3.10.1A.
- 1328
- 1329 1. Parallel to and toward the street lot line no less than the length of the pool when the pool is on
- 1330 the street side of the building; and
- 1331
- 1332 2. Parallel to the side and front lot lines no less than the length and width of the pool when the
- 1333 pool is on the side or end of the building.
- 1334
- 1335 D. Pools, hot tubs, and pool decks in rear or side yards may not exceed a height of 30 inches above grade.
- 1336
- 1337 E. All swimming pools and enclosures constructed or erected on any parcel, other than accessory to a
- 1338 single-family detached or duplex residence, shall meet the minimum yard requirements specified for
- 1339 buildings or structures in the zoning district the construction occurs.
- 1340
- 1341 F. Portable swimming pools. Portable swimming pools are prohibited in the front or the side of any
- 1342 residential lot. Portable swimming pools capable of holding 24 inches in depth or more of water shall
- 1343 be anchored into the ground sufficiently to prohibit movement during a hurricane. Portable pools
- 1344 shall be enclosed by a fence or other protective material, or otherwise shall be covered, when not in
- 1345 use, by a protective cover so that a child cannot accidentally enter the pool. Drainage of pools so as
- 1346 to permit the water to run onto property of other people is prohibited. Wading or splash pools not
- 1347 capable of holding 12 inches or more of water are exempt from the provisions of this subsection.
- 1348

1349 **Section. 5.2.16. Unattended donation bins.**

1350

- 1351 A. Unattended donation bins are prohibited except within commercial developments and subject to the
- 1352 following requirements:
- 1353
- 1354 B. Unattended donation bins are permitted only on sites with a minimum of 125 parking spaces;
- 1355
- 1356 C. Bins may not be in a required parking space or a drive aisle;
- 1357
- 1358 D. Bins may not be placed in required landscape buffers and trees may not be removed in order to locate
- 1359 a bin;
- 1360
- 1361 E. Bins shall be maintained in good condition and appearance with no structural damage, holes, or visible
- 1362 rust and shall be free of graffiti;
- 1363
- 1364 F. Bins shall be locked or otherwise secured;
- 1365
- 1366 G. Bins shall contain contact information in accordance with F.S. Chapter 496.4121; and
- 1367

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- H. 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.

CHAPTER 3. Land Clearing, Filling, Extraction, and Construction Sites.

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 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.

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- 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 or borrow pit permits involving explosives must be renewed every 90 days.
1418
- 1419 C. Excavations, removal, or extraction for purposes of oil or gas exploration or production.
1420
- 1421 1. All such excavations, removals, or extractions shall be sealed by fencing or grading or other
1422 device from general public access. All entrances shall be fenced and locked during nonbusiness
1423 hours.
1424
- 1425 2. Prior to any such excavation, removal, or extraction the following shall be submitted to the
1426 Department of Community Development: drainage plans, aerial photograph of the site, a plan
1427 for development of the total site when the removal is completed, the estimated costs of
1428 restoring the site to a safe and developable condition, and a deposit of funds or other financial
1429 instruments payable to the City of Cape Coral is required equal to the estimated cost of
1430 restoring the site. The estimated cost for restoring the site shall include fence or berm removal,
1431 lake, bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other
1432 items that the Department, Hearing Examiner, or Council deems appropriate to ensure that the
1433 site is restored to a safe and usable condition. The plans shall be reviewed by the HEX and
1434 written recommendation made to the Council prior to application for an excavation permit. No
1435 permit to drill a gas or oil well shall be issued unless City Council approves the application for
1436 such permit by resolution.
1437
- 1438 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner
1439 subject to final approval by the City Council.
1440
- 1441 4. No excavation or extraction may be made with explosives without express permission of the
1442 Council. Excavation permits involving explosives must be renewed every 90 days.
1443
- 1444 5. No person or entity may engage in any oil and gas exploration or production that utilizes well
1445 stimulation within the corporate boundaries of the City of Cape Coral or, consistent with F.S.
1446 §377.24(6), within the tidal waters of the state abutting or immediately adjacent to the
1447 corporate limits of the municipality, or within three miles of the City's corporate limits
1448 extending from the line of the mean high tide. As used in this section, the term "well
1449 stimulation" shall mean a well intervention, exploration, operation, or maintenance procedure
1450 performed by injecting fluid into a rock formation in order to increase production at an oil or
1451 gas well by improving the flow of hydrocarbons from the formation into the wellbore. Well
1452 stimulation does not include routine well cleaning that does not affect the integrity of the well
1453 or the formation.
1454
- 1455 D. Procedures.
1456

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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.
3. If the conceptual plan as presented by the applicant will require a zoning amendment for development, the applicant must prepare and submit a planned development project for the entire project prior to approval of the excavation.
4. If the excavation or borrow pit application is approved, the applicant may then apply for an excavation or borrow pit permit.

Section. 5.3.2. Land Clearing, Filling, and, Excavation.

- A. Proposed alterations to ground elevation or vegetative cover not associated with an approved Site Development Plan, Final Subdivision Plan, or building permit shall be submitted to the Director with an application for a permit for Land Clearing and Fill containing the required plans and documentation. The director may require certification by a registered professional engineer that site improvements have been made in accordance with permits issued pursuant to this Section.
- B. The following activities shall require a site improvement permit:
 1. Clearing of trees and vegetation without disturbing the soil surface;
 2. Clearing including stump removal and grubbing of top soils; and
 3. Filling.
- C. Maintenance:
 1. The applicant shall be responsible for the maintenance, repair, and replacement of all existing vegetation as may be required by the provisions of Chapter 8.
 2. In buffer areas and areas outside the impervious cover, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Plant materials required by Chapter 8 of this article which is unhealthy, dying, or dead shall be replaced during the next planting season.
- D. Excavation involving more than surface contouring for erosion control is only permitted with approval of a Site Development Plan or Subdivision Construction Plan.

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E. In all districts, other than agriculture zoning, the city shall not permit any new borrow pits or mining activities, however, reshaping or restoration of existing borrow pits may only be permitted incidental to an approved Site Development Plan or Subdivision Construction Plan. Agriculturally zoned lands may propose new borrow pits as a Special Exception.

F. The following land clearing activities shall not require a permit:

1. Removal of invasive plants without disturbance of the soil; or
2. Land clearing for agricultural uses.

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.

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1548 4. Traffic control plans shall include:

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1550 a. Access points with dimensions;

1551
1552 b. Area to be stabilized and a written plan on staging of construction related traffic including
1553 adequate parking (both on and off-site); and

1554
1555 c. Plan for delivery of materials.

1556
1557 B. Approval of plan and waivers. The building official or development services manager shall review,
1558 approve, or deny the construction site management plan and is authorized to grant waivers from
1559 submittal requirements:

1560
1561 1. If the requirement is unrelated to proposed development;

1562
1563 2. If the impact of the proposed development is negligible in that submittal requirement area; or

1564
1565 3. If unusual site conditions do not allow full compliance with this Section.

1566
1567 **CHAPTER 4. MARINE IMPROVEMENTS.**

1568
1569 **Section. 5.4.1. Purpose and Intent**

1570
1571 In order to allow all waterfront property the same ability to utilize and access adjacent waterways, the
1572 development of docks, wharves, mooring piles, and watercraft moorings must be accomplished in a
1573 standard and unified manner. Boat slips and docks may be constructed by the owner of a waterfront lot,
1574 with adequate water frontage, where a principal building exists.

1575
1576 **Section. 5.4.2. General Requirements.**

1577
1578 A. An applicant who disagrees with the measurement of the calculated waterway width by the city's
1579 Geographic Information System (GIS) may submit a survey of the waterway width, prepared by a
1580 professional surveyor licensed in the state of Florida, to support the applicant's contention that the
1581 calculated waterway width is inaccurate.

1582
1583 B. No dock or piling shall be permitted that interferes with the right to navigate safely within the
1584 waterways of the city. In no event shall the navigable area be reduced to less than 50% of the
1585 calculated waterway width.

1586
1587 C. The elevation of pilings shall not exceed 10 feet above the seawall cap or, if no seawall exists, 13 feet
1588 above mean water level.

1589
1590 D. The elevation of the decking of a marine improvement shall not exceed two feet above the seawall
1591 cap, or if no seawall exists, five feet above mean water level. For marine improvements in the
1592 Caloosahatchee River, and for marine improvements in canals within 300 feet of the platted shoreline

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of the Caloosahatchee River, the elevation of the decking shall not exceed four feet above the seawall cap, or if no seawall exists, seven feet above mean water level.

- E. All pilings or mooring posts shall be offset a minimum of two and one-half feet from any storm drain outfall pipe. Such measurement shall be made from the outside edge of the outfall pipe to the center of the piling or mooring post.
- F. All docks permitted under this Section that project from a parcel with a seawall shall have a ladder extending from the dock into the waterway. No ladder extending from a dock into a waterway shall be made of wood.
- G. The property owner shall be solely responsible for compliance with all applicable provisions of the Lee County Manatee Protection Plan.
- H. Prior to the final inspection by the City, the owner shall submit a final signed and sealed survey showing that all construction is in compliance with the requirements of this Code.

Section. 5.4.3. Dimensional Standards

- 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:

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- 1683
- 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 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.
 - e. 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:
 - i. Such a parcel may have either a platform dock not more than ten feet wide and extending not more than 16 feet into the canal or not more than two finger piers (with or without a boat lift) that together total no more than six feet in deck width and that extend not more than 30 feet into the canal.
 - ii. No marine improvement that projects more than six feet into the canal shall extend more than ten feet either side of the center point of the water frontage line of the parcel. Furthermore, no marine improvement shall extend beyond the ends of the water frontage line of the parcel. All marine improvements shall be centered on the centerline of the waterfront parcel's marine improvement area. See Diagram 5.4.3.F
 - 7. When a parcel is at the corner of a waterway so as to include water frontage (all under the same ownership) on both the side and end of a waterway, the property owner may install or erect a marine improvement that extends from the side of the waterway to a maximum distance of 25%

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of the calculated width of the waterway or 30 feet, whichever is less, and from the end of the waterway a distance of 30 feet into the waterway.

8. Except as otherwise provided herein for joint marine improvements, no marine vessel (or any part thereof) when secured in any way to a marine improvement projecting from an end parcel, an adjacent parcel, or a parcel on a lake or basin (excluding outside corner parcels) shall extend beyond the boundaries of the marine improvement area of the parcel unless prior written consent of the affected property owner is obtained. Such consent shall be revocable by the affected property owner and shall automatically terminate in the event the ownership of the affected property changes. In the event ownership changes, the written consent of the new owner must be obtained if the marine vessel is to continue to extend beyond the ends of the water frontage of the parcel.
9. Marine improvements that do not project more than six feet into a waterway as measured from the water frontage line may extend the full length of the water frontage of the parcel. However, where the end of a parcel water frontage line abuts the water frontage line of another parcel, the angle at which such two water frontage line ends meet shall be bisected and apportioned equally between the two waterfront parcels. In that event, no marine improvement shall extend beyond the bisector of the angle.
10. No marine improvement that projects more than six feet from the water frontage line of the property shall be permitted to be outside of the marine improvement area for a waterfront parcel. The boundaries and dimensions of the marine improvement area shall be determined as follows:
 - a. End parcels.
 - i. The access width of the waterway shall be calculated by subtracting from the calculated waterway width twice the maximum distance that a marine improvement along one side of the waterway could lawfully project as determined pursuant to Section 5.4.4.A.1.
 - ii. The waterway access ratio shall be calculated by dividing the waterway access width by the calculated width of the waterway.
 - iii. The waterway center point (WCP) is a point on the centerline of the canal 30 feet from the water's end. All marine improvement area lines and intersections are calculated and plotted from the WCP. See Diagram 5.4.3.B.
 - iv. Offset points for the parcel are determined as follows: If the parcel has 80 feet or more of water frontage line, then the offset points shall be located 12 feet from each end of the water frontage line of the parcel. If the parcel has more than 40 feet, but less than 80 feet of water frontage line, then the offset points shall be located in from the ends of the water frontage line the distance (in feet) resulting from the following formula: (Feet of Water Frontage Line - 40) x 0.3. If the parcel has 40 feet or less of water frontage line, then the ends of the parcel's water frontage line shall be the offset points. See Diagram 5.4.3.C.
 - v. From the WCP, plot a line having the same relationship to the WCP as the water frontage line has to the center of the canal end, but with all distances reduced in size by the waterway access ratio. This line is the offset line for the parcel. See Diagram 5.4.3.D.

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- vi. The 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. See Diagram 5.4.3.E.
- b. Adjacent parcels. The marine improvement area for an adjacent parcel shall be calculated in the same manner as that for an end parcel except as follows:
- i. Adjacent parcel that abuts an end parcel with 40 feet or less of water frontage line. On the side of the adjacent parcel that abuts an end parcel with 40 feet or less of water frontage line, the side boundary of the marine improvement area shall constitute the side boundary of such adjacent parcel's marine improvement area. See Diagram 5.4.3.I. & J.
- ii. Adjacent parcel that abuts an end parcel with more than 40 feet of water frontage line. On the side of the adjacent parcel that abuts an end parcel with more than 40 feet of water frontage line, the side boundary of the adjacent parcel's marine improvement area shall be determined by drawing a line from the end of the subject adjacent parcel's water frontage line (on the same side as the subject end parcel) to the nearest terminus point of the subject end parcel's offset line and passing through the adjacent parcel's offset line. The side boundary shall be that portion of the aforesaid line between the end of the adjacent parcel water frontage line and the parcel's offset line. However, in no event shall the side boundary extend beyond the bisector of the angle formed where the adjacent parcel's water frontage line abuts the end parcel's water frontage line. The bisector shall be extended into the waterway the maximum distance a marine improvement could lawfully project within the marine improvement area. See Diagram 5.4.3.G.
- 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

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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 the lake or basin. Plot the waterway line from the center of the side of the lake or basin for which it was calculated to a point that is 30 feet waterward from the water frontage line. The offset line for a corner parcel marine improvement area is formed by connecting the two foregoing points. The marine improvement area for the corner parcel is that area enclosed by the parcel water frontage line, the offset line, and lines connecting the ends of the offset line to the corresponding offset points for the parcel, if any, or to the ends of the water frontage line. See Diagrams 5.4.3.L & M.
- iv. For adjacent lake or basin parcels, the marine improvement area shall be calculated in the same manner as that for end lake or basin parcels except as follows: With respect to an adjacent lake or basin parcel that abuts a corner parcel with 40 feet or less of water frontage line, the side boundary of the corner parcel marine improvement area (on the side where it abuts the adjacent parcel) shall form the side boundary of the adjacent parcel marine improvement area. With respect to an adjacent lake or basin parcel that abuts a corner parcel with more than 40 feet of water frontage line, the side boundary of the adjacent parcel (on the same side as the subject corner parcel) shall be determined by drawing a line from the end of the adjacent parcel water frontage line to the nearest terminus point of the subject corner parcel offset line and passing through the adjacent parcel offset line. The side boundary of the adjacent parcel shall be that portion of the aforesaid line between the end of the adjacent parcel water frontage line and such parcel's offset line. See Diagram 5.4.3.M
- v. Owners of waterfront parcels on a lake or basin aggrieved by the interpretation or application of this Section to such parcel due to the physical configuration of the

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particular lake or basin, then the Director may interpret and apply the provisions of this Section so as to alleviate the hardship resulting from the configuration of the lake or basin and so as to enable the waterfront parcel a reasonable marine improvement area.

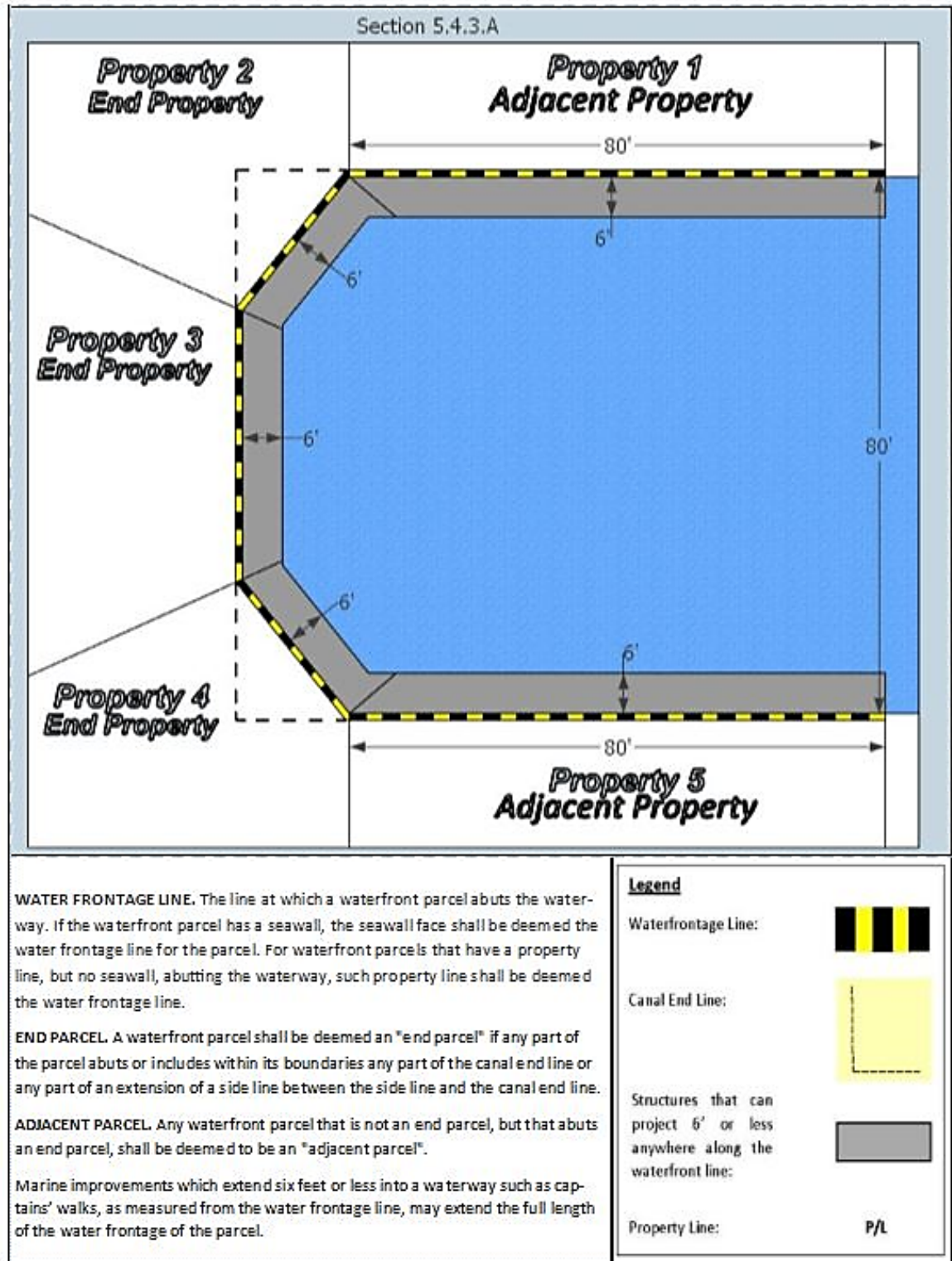
6. In the event a significant portion of a waterway is not developable on one side due to ecological or other constraints, a marine improvement on the opposite side of the unnavigable portion shall be permitted to project into the waterway up to 50% of the calculated waterway width or 40 feet, whichever is less, as measured from the waterfrontage line. See Diagram 5.4.3.N
7. No marine vessel (or any part thereof) when secured in any way to a marine improvement shall extend beyond the ends of the water frontage of the parcel from which the marine improvement projects.
8. All properties adjacent to bridges shall be reviewed individually by the city to determine what, if any, marine improvement may project from that property. Factors to be considered in making this determination include, but are not limited to, public safety and the impact of a planned marine improvement on navigability.

B. Maximum dock surface area.

1. For parcels with more than 40 feet of waterfrontage, the maximum deck surface area coverage shall be calculated as follows: the linear feet of water frontage of the parcel minus 20 feet times one-half times the linear feet of the maximum projection into the waterway (25% of the calculated width of the waterway or 40 feet, whichever is less).
2. For parcels with 40 feet or less of waterfrontage, the maximum deck surface area shall be calculated as follows: the linear feet of waterfrontage of the parcel times one-quarter times the linear feet of the maximum projection into the waterway (25% of the calculated width of the waterway or 40 feet, whichever is less).

Section 5.4.3. Graphics

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Section 5.4.3.B

Property 2
End Property

Property 1
Adjacent Property

Property 3
End Property

Property 4
End Property

Property 5
Adjacent Property

80'

20'

40'

30'

80'

20'

80'

Legend

Waterfrontage Line: [Black and yellow dashed line]

Waterway Center Point: [Circle with crosshair]

Access Width: [Green shaded area]

Maximum Side Protection: [Yellow shaded area]

Property Line: [Solid black line]

The Waterway Center Point (WCP) is a point on the centerline of the canal 30 feet from the water's end. All marine improvement area lines and intersections are calculated and plotted from the WCP.

Maximum Side Projection (MSP): $0.25(W) = 0.25(80) = 20'$

Access Width (AW): The portion of the waterway in which no structure may lawfully be constructed. $AW = W - 2(MSP) = 80 - 2(20') = 40'$

Waterway Access Ratio (WAR): $AW/W = 40'/80' = 0.50$

2.

Section 5.4.3.C

Property 2
End Property

Property 1
Adjacent Property

Property 3
End Property

Property 4
End Property

Property 5
Adjacent Property

Dimensions: 28.4', 40', 28.4', 80', 60', 12', 12', 6', 6', 30'.

Legend

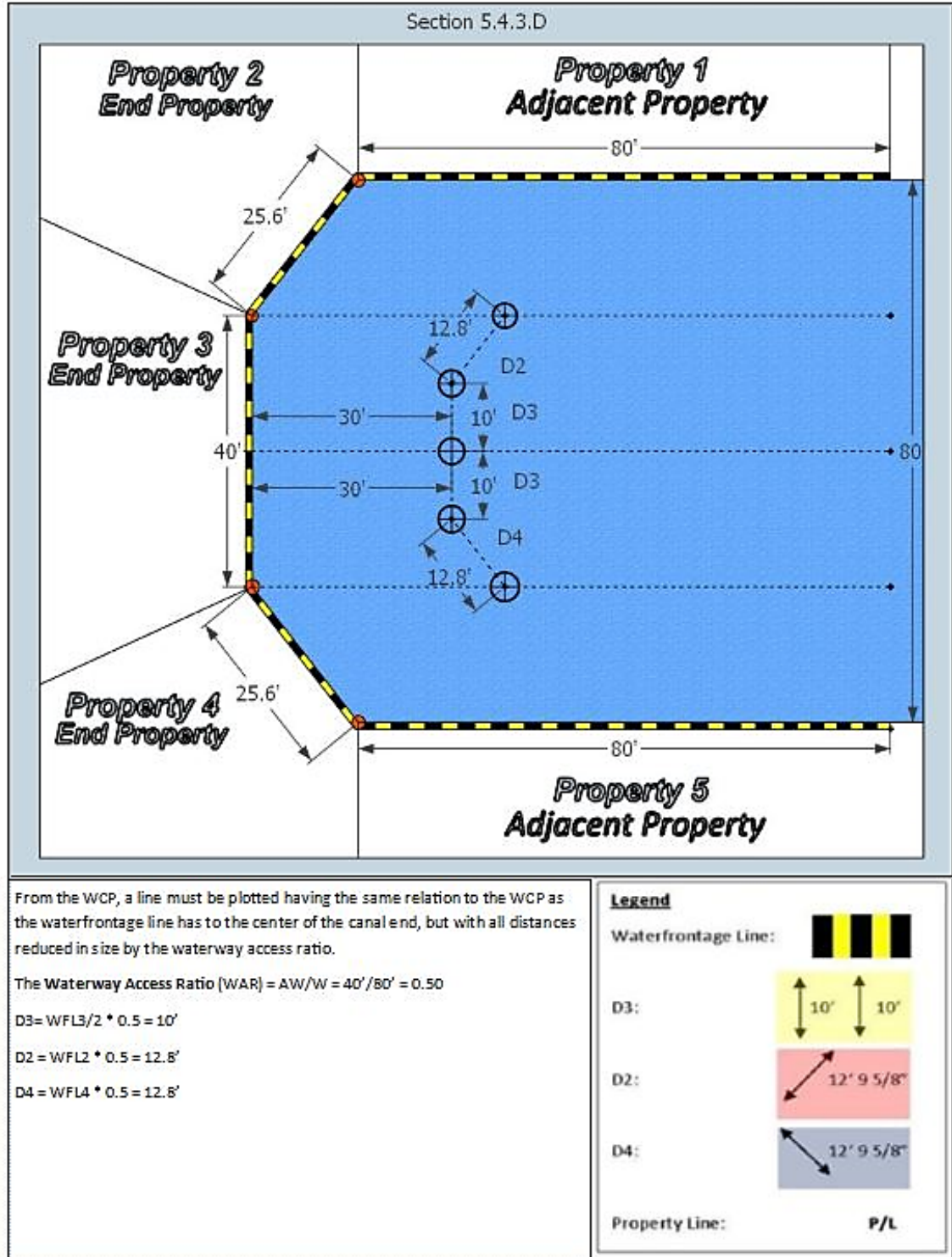
- Waterfrontage Line: Yellow and black dashed line
- Offset Points: Red dot
- Waterway Center Point: Circle with crosshair
- Property Line: P/L

If the parcel has 40 feet or less of waterfrontage, then the ends of the parcels waterfrontage line shall be the offset points. (Property 2, 3, & 4)

If the parcel has more than 40 feet, but less than 80 feet of waterfrontage, then the offset points shall be located in from the ends of the waterfrontage line the distance n feet resulting from this formula: $(\text{feet of waterfrontage line} - 40 \times 0.3)$. (Property 5)

If the parcel has 80 feet or more of waterfrontage, then the offset points shall be located 12 feet from each end of the waterfrontage line of the parcel. (Property 1)

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Section 5.4.3.E

Property 2
End Property

Property 1
Adjacent Property

80'

Property 3
End Property

Property 4
End Property

Property 5
Adjacent Property

Marine Improvement Area 1

14'

12'

Marine Improvement Area 2

30'

Marine Improvement Area 3

30'

Marine Improvement Area 4

14'

12'

Marine Improvement Area 5

14'

12'

60'

80'

Legend

Waterfrontage Line: [Dashed yellow line]

Waterway Center Point: [Circle with cross]

Structures that can project 6' or less anywhere along the waterfront: [Solid black rectangle]

Property Line: P/L

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.

**Property 2
End Property**

**Property 1
Adjacent Property**

**Property 3
End Property**

**Property 4
End Property**

**Property 5
Adjacent Property**

80'

28.4'

40'

28.4'

80'

80'

10'

30'

10'

30'

10'

30'

10'

30'

C/L

C/L

C/L

80'

Legend

Waterfrontage Line:

Waterway Center Point:

No structure within this area:

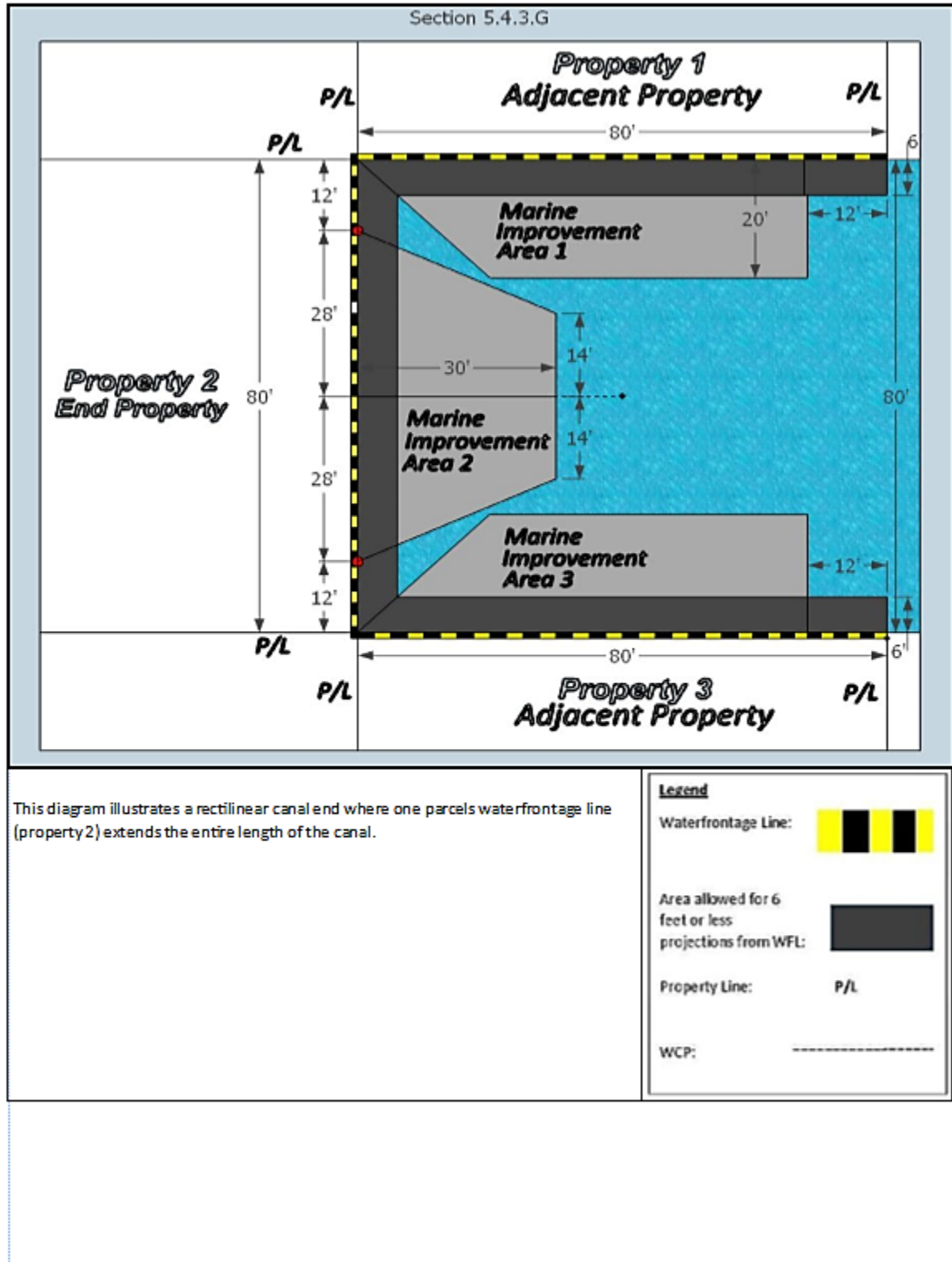
Area allowed for 6' or less projections from wall:

Property Line:

P/L

5.

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6.

Section 5.4.3.H

The diagram shows a canal end with an arc, bounded by four properties: End Property 2, End Property 3, End Property 4, and Adjacent Properties 1 and 5. The canal contains five Marine Improvement Areas (Area 1 to Area 5). Key dimensions include:

- Marine Improvement Area 1:** 20' wide at the top right.
- Marine Improvement Area 2:** 30' wide at its base.
- Marine Improvement Area 3:** 30' wide at its base.
- Marine Improvement Area 4:** 15' wide at its base, with a 9' offset from the property line.
- Marine Improvement Area 5:** 20' wide at its base, with a 6' offset from the property line.
- Waterfrontage Line:** Indicated by a dashed yellow line with black segments.
- Property Lines (P/L):** Indicated by solid black lines.
- Offsets:** Various offsets are shown, such as 6', 15', 9', 4' 6', 12', and 15'.

This diagram illustrates a canal end that has an arc. It also displays offset points for a parcel (property 4 with 70 feet of waterfrontage) that has less than 80 feet but more than 40 feet of waterfrontage.

If the parcels waterfrontage line is more than 40 feet, but less than 80 feet, then the offset points shall be located in from the ends of the waterfrontage line the distance resulting from the following formula:

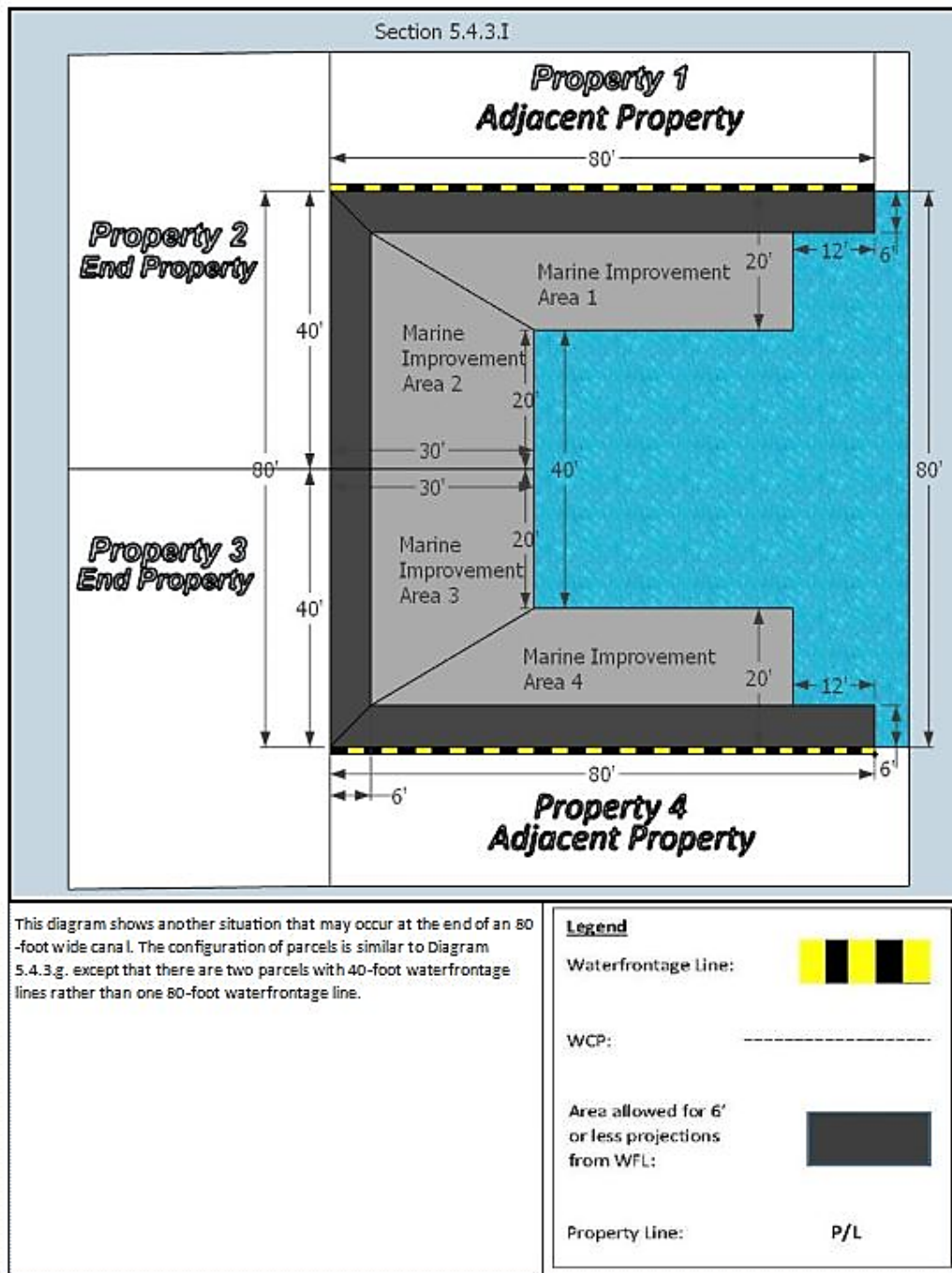
$$(WFL-40) \times 0.3 = \text{Distance to the Offset Point (OP)}$$

$$(70-40) \times 0.3 = 9.0$$

Legend

- Waterfrontage Line:
- WCP:
- No structure within this area:
- Property Line: P/L

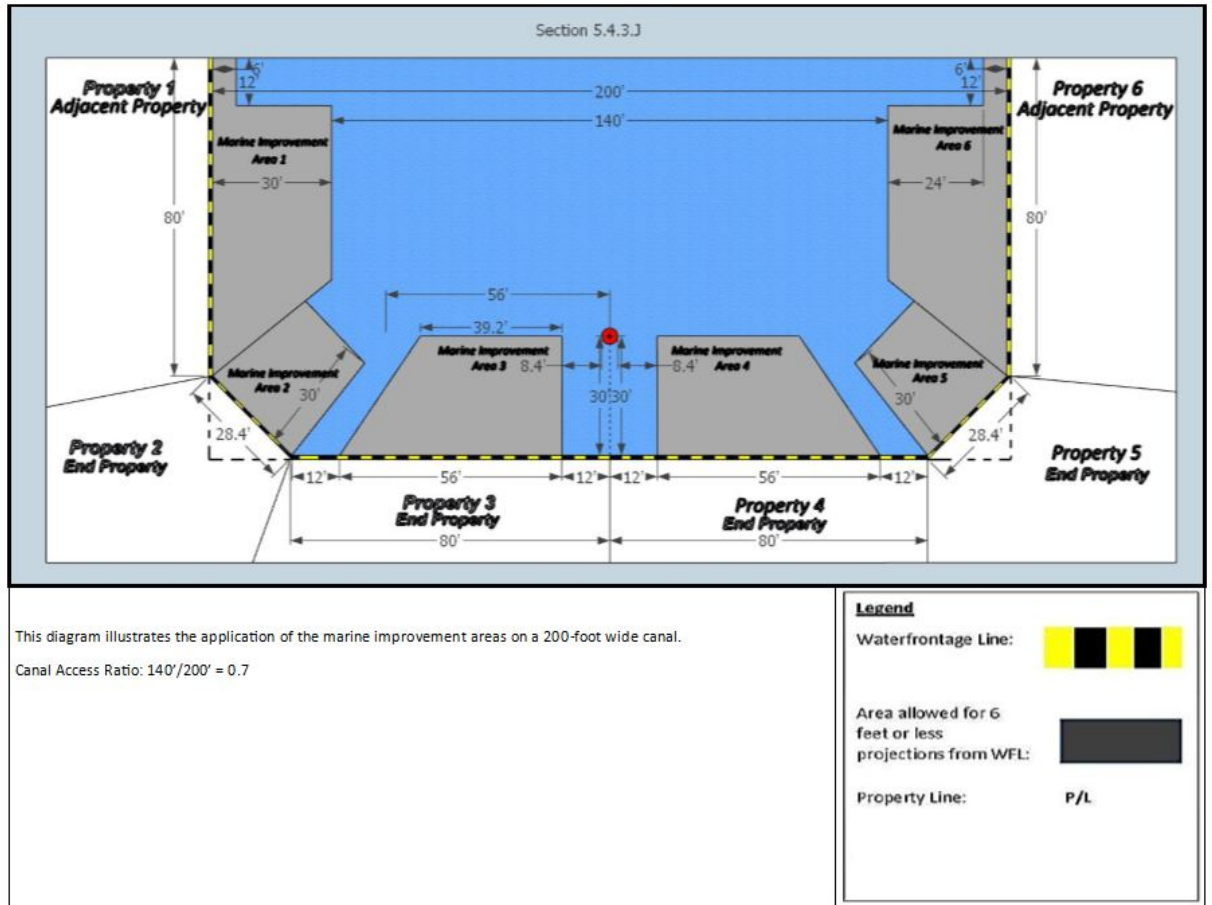
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8.

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9.

Section 5.4.3.K

Lake and Basin Corner

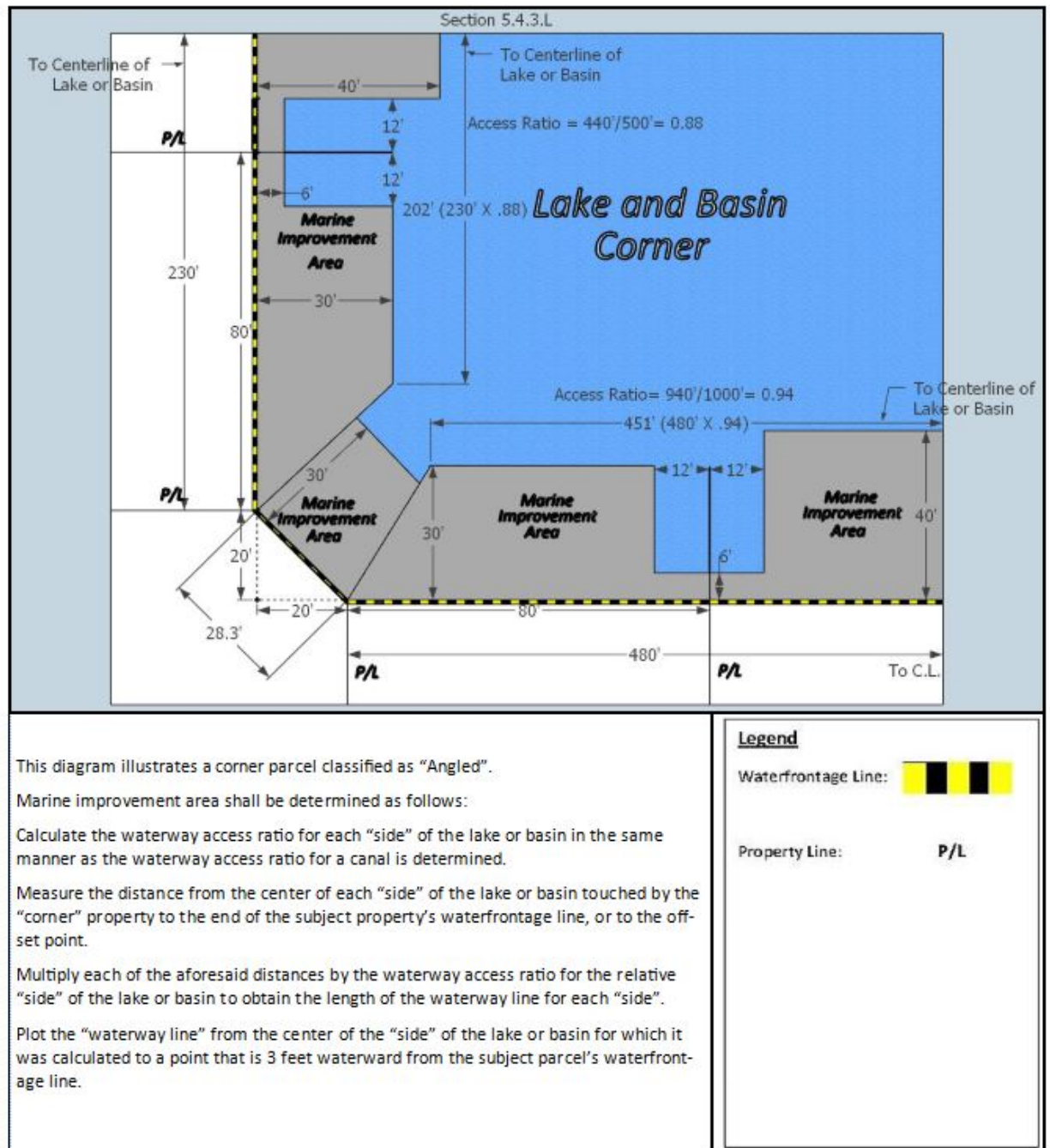
Legend

Waterfrontage Line:

Property Line: **P/L**

With respect to a corner parcel the waterfrontage 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.

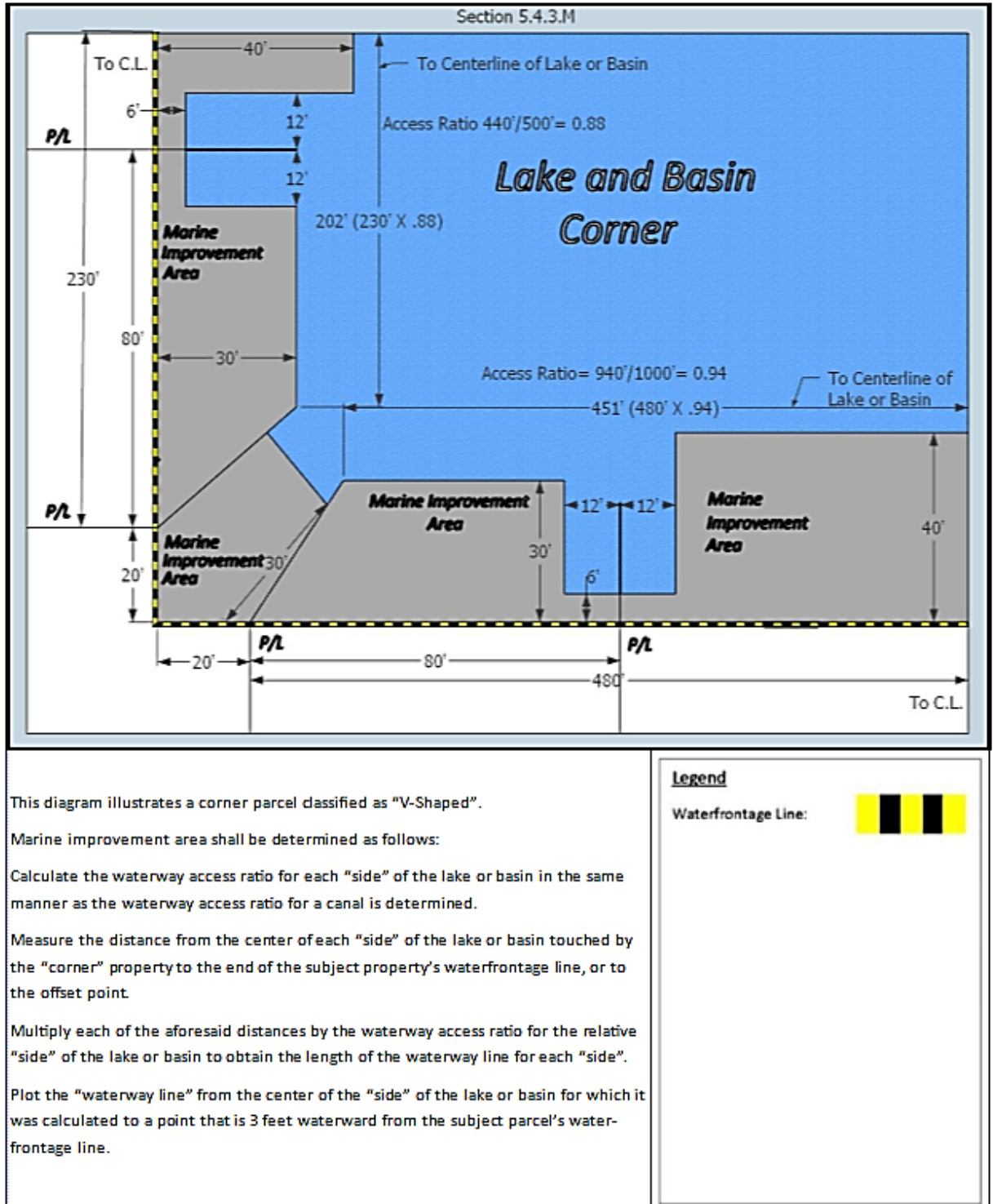
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11.

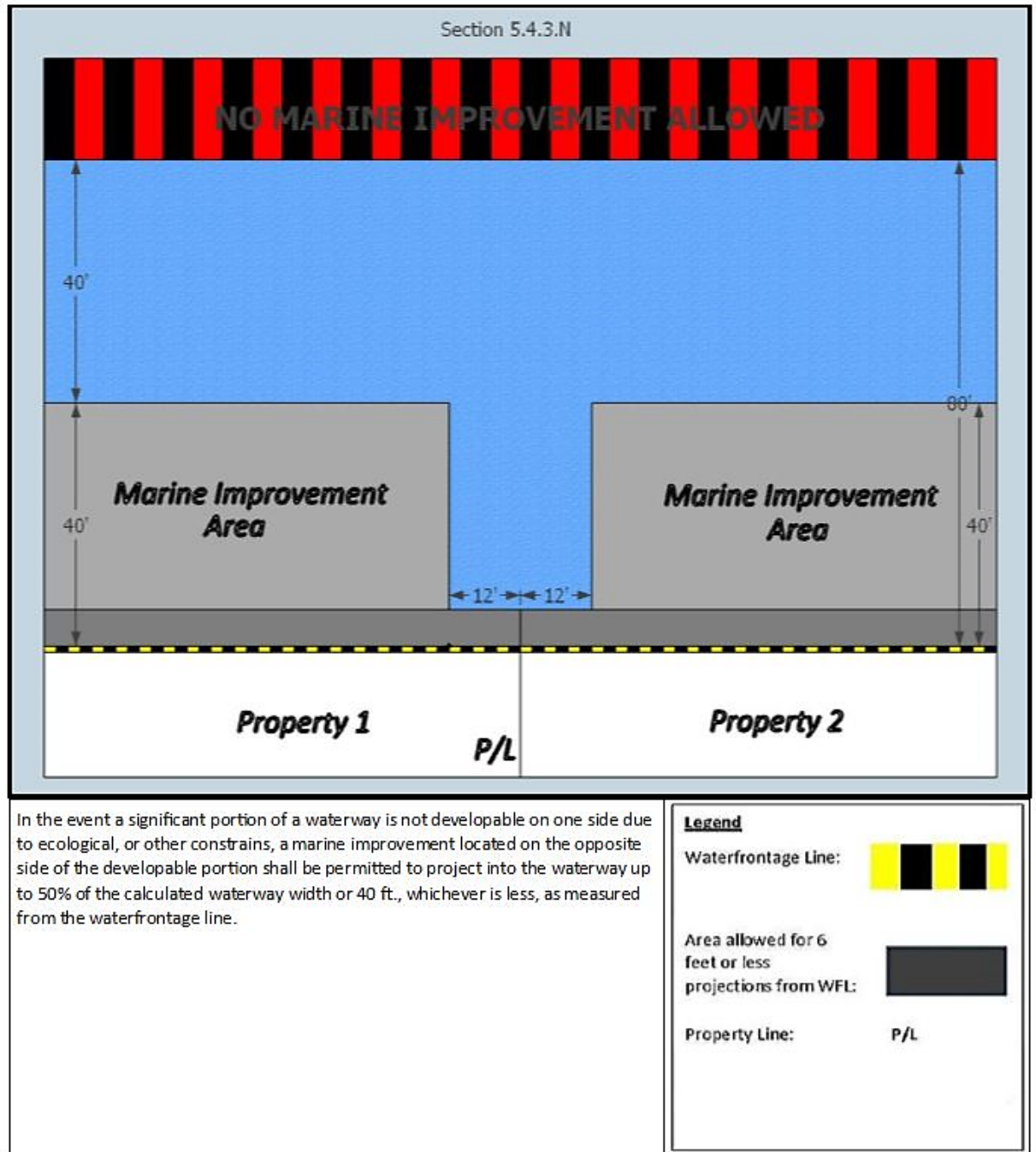
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12.

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13.

Section 5.4.3.0

2 Options

Marine Improvement Area

Corner Property

P/L

80'

20'

20'

40'

6'

20'

80'

P/L

Legend

Waterfrontage Line:

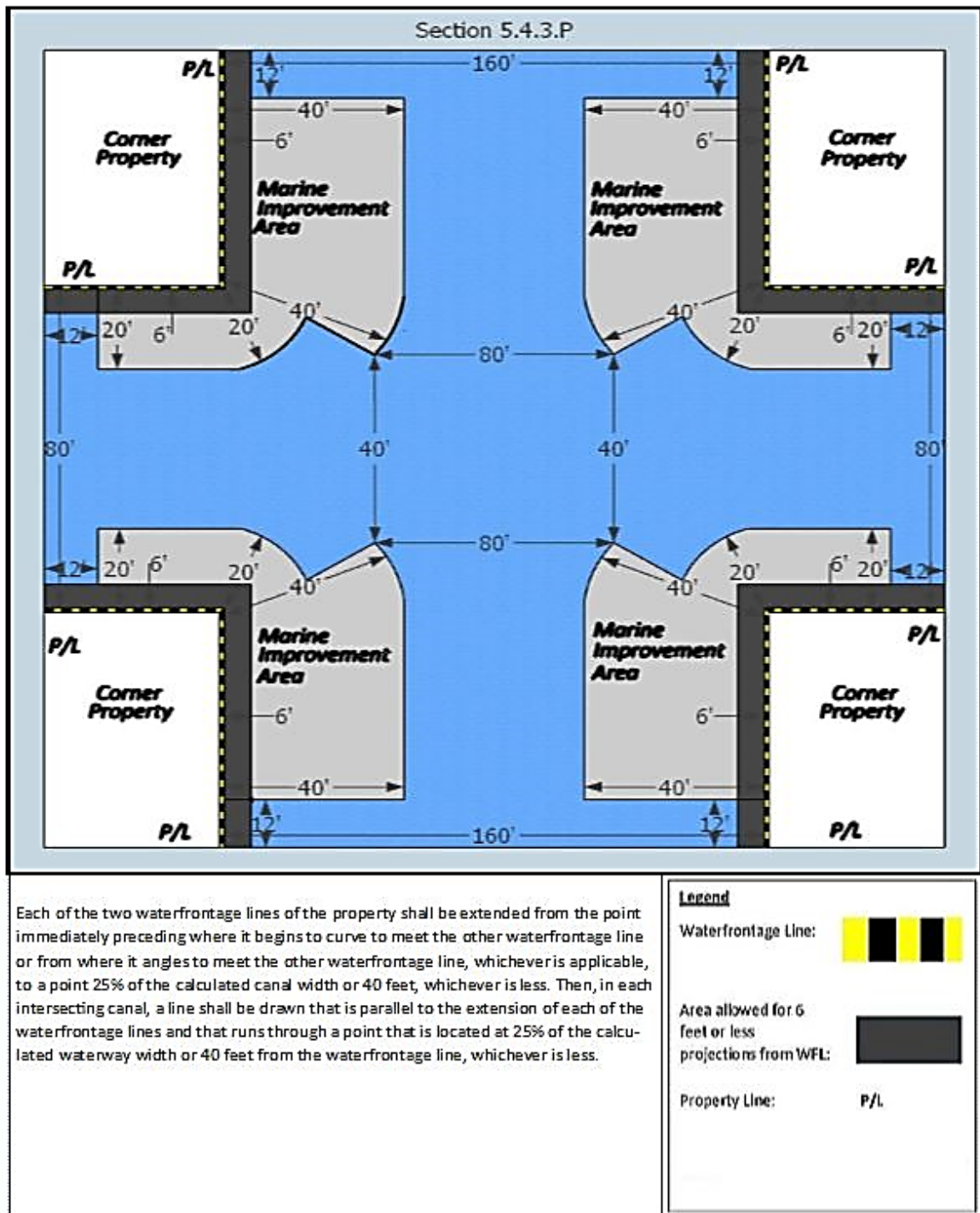
Area allowed for 6 feet or less projections from WFL:

Property Line: P/L

Each of the two waterfrontage lines of the property shall be extended from the point immediately preceding where it begins to curve to meet the other waterfrontage line or from where it angles to meet the other waterfrontage line, whichever is applicable, to a point 25% of the calculated canal width or 40 feet, whichever is less. Then, in each intersecting canal, a line shall be drawn that is parallel to the extension of each of the waterfrontage lines and that runs through a point that is located at 25% of the calculated waterway width or 40 feet from the waterfrontage line, whichever is less.

14.

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15.

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Section 5.4.4. Joint Marine Improvements.

Owners of adjoining waterfront parcels may adjust their abutting marine improvement area boundaries and offset requirements by entering into a written joint use agreement, provided the marine improvements are connected. A captain's walk does not constitute a connection for requiring a joint marine improvement. All limitations regarding the maximum area of marine improvements shall apply to each property and the maximum marine improvement area allowed for each parcel shall not be combined or modified in any way so as to increase the maximum marine improvement area allowed for either parcel. Marine vessels or boat canopies when secured in any way to a joint marine improvement may extend beyond the end of one of the waterfront parcels involved at the point where such parcel abuts the other parcel sharing the marine improvement. However, no marine vessel (or any part thereof) shall extend beyond the outer ends of the water frontage of the two waterfront parcels except as provided in § 5.4.3.A.8 The joint use agreement shall, at a minimum, comply with the following requirements.

- A. The agreement shall contain the name(s) and current home address(es) of both property owners.
- B. The agreement shall identify the waterway upon which the subject parcels are located and shall identify the waterfront parcels involved by legal description and by STRAP number. The agreement shall also include a signed and sealed survey of the subject adjoining parcels.
- C. The agreement shall include a drawing of the proposed marine improvement(s) to be constructed, showing the design and dimensions of the marine improvement(s), and where the marine improvements will project from the parcels.
- D. The agreement shall identify those areas that would be subject to access (ingress and egress) easements in conjunction with the joint marine improvement. Such easement(s) shall identify by legal description the property to which the easement attaches and shall be irrevocable except with the written consent of the city. The rights of each party with respect to such easement(s) shall run with the title to the respective parcels. A drawing identifying the easements shall also be included with the agreement.
- E. The agreement shall identify the responsibilities of each of the parties for the construction and maintenance of the facilities. However, identification or division of responsibilities between parties in the agreement shall not affect the ability of the city to enforce any and all provisions of its Code of Ordinances or Land Development Codes against the property owner(s) of the joint marine improvement, jointly and severally.
- F. The agreement shall state that the parties understand and agree to abide by all applicable federal, state, and local regulations pertaining to the construction, maintenance, and use of the facilities.
- G. The agreement shall run with the land and be binding upon the parties, their successors, heirs, and assignees and it shall provide that it may not be rescinded or amended without the written consent of the city.
- H. The parties to the agreement shall record the agreement, at their own expense, in the public records of Lee County. The agreement shall satisfy all requirements for recording, including those contained

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in the Florida Statutes. No permit for the construction of a joint marine improvement or for the erection or installation of a boat canopy on a joint marine improvement shall be issued by the city until the parties have first provided to the city a copy of the fully executed agreement and evidence of recording that is satisfactory to the city, in its sole discretion.

- I. Prior to execution and recording of the agreement, the parties shall submit a draft of the proposed agreement to the Community Development Director for review and comment.

Section. 5.4.5. Quays and mooring piles.

- A. A seawall may be altered to accommodate the mooring of a vessel if it is determined that the seawall is structurally sufficient for that purpose.
- B. Mooring piles may be installed directly adjacent to the seawall to allow for the mooring of watercrafts without a dock.
- C. Pilings shall not be higher than eight feet above mean high water.
- D. Any watercraft moored at a quay or a pile may not be any closer than 10 feet to the adjacent property line.

Section. 5.4.6. Davits, watercraft lifts, and floating docks.

- A. Lifts: An electrical permit is required to install a lift within an existing u-shaped dock.
- B. Davits:
1. The minimum side setback for davit installation shall be five feet from the side lot line to the center of the davit base.
 2. Davits, including swinging lifts when extended over the water, may not extend further than 25% into the waterway or 30 feet whichever is less.
 3. Overhead hoists, davits, or machinery shall not exceed eight feet above mean high water when not in use.
- C. Floating docks and lifts:
1. For dimensional requirements refer to Section 5.4.3. above.
 2. A floating dock or lift must be anchored in place so as not to impede the use of neighboring waterfront property.

Section. 5.4.7. Boathouses and canopies.

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- 1963 A. No overhead structure shall be constructed on any dock other than an approved boat canopy or sun
1964 shelter. Sun shelters shall be erected or installed on docks only in accordance with Section 5.2.10. of
1965 this article. Boat canopies are permitted to be erected or installed on marine improvements for the
1966 purpose of protecting a vessel from the elements only in accordance with the following:
1967
- 1968 B. The support(s) and frame(s) of a boat canopy shall be constructed of a corrosion-resistant material.
1969 Boat canopy supports shall be arranged in an open design so as to allow visibility through the sides
1970 with openings no smaller than four feet in any dimension. No boat canopy support or frame shall be
1971 of a solid or opaque design so as to create a wall. No boat canopy shall have wooden framing or
1972 supports. No shutter roll-up design shall be permitted.
1973
- 1974 C. The canopy shall be fabric or a material which can be rolled and folded without damage. The canopy
1975 shall be attached to the boat canopy supports or frames in such a manner that it detaches in a wind
1976 load of 70 mph or greater.
1977
- 1978 D. The boat canopy shall not extend horizontally more than 30 inches over or beyond any dock to which
1979 the canopy is attached, except to the rear of a boat slip where it may extend up to 48 inches past the
1980 end of the structure. Canopies attached to marine improvements that are built to the maximum
1981 projection, may extend up to 30 inches beyond the structure.
1982
- 1983 E. No boat canopy shall exceed 40 feet in length or 18 feet in width.
1984
- 1985 F. Boat canopies, their supports, and frames shall be maintained in good repair at all times. No canopy,
1986 canopy support, or frame shall be allowed to fall into disrepair or to become dilapidated, structurally
1987 dangerous, or unsafe. In the event a boat canopy, canopy support, or frame falls into disrepair, it shall
1988 be the responsibility of the owner of the waterfront parcel to remove the offending structure.
1989
- 1990 G. Only one canopy may be permitted per parcel.
1991
- 1992 H. No boat canopy, when measured at its highest point, shall extend more than 14 feet above the seawall
1993 cap, or if no seawall exists, above the decking of the marine improvement.
1994

Section. 5.4.8. Bulkheads, seawalls, and retaining walls.

- 1997 A. Mandatory seawalls required; saline or brackish water. All parcels having frontage or direct and
1998 immediate access to frontage on any saline, brackish, or tidally influenced canal or other body of
1999 water within or bordering the boundaries of the city is required to have a seawall bulkheading the
2000 entire frontage exposed to contact with the water.
- 2001 B. Seawalls; fresh or non-saline water. All parcels having frontage or direct and immediate access to
2002 frontage on any freshwater or non-tidal canal or other body of water within or bordering the
2003 boundaries of the city are required to have a seawall bulkheading the entire frontage exposed to
2004 contact with the water or alternatives to vertical bulkheads as specified in the City of Cape Coral
2005 Engineering Design Standards. Seawalls or their alternative shall be structurally maintained at owner's
2006 expense so as not to cause a nuisance or hazard to safety. The provisions of this Section shall not apply
2007 to any parcels adjacent to or contiguous with any drainage ditch, canal, pond, or lake within any public
2008 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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H. Reduce stormwater runoff. Water running off from private yards can carry pollutants such as soil, debris, fertilizer, and pesticides that can adversely impact water quality.

I. Protect the waterfront. Waterfront property is very fragile and should be carefully protected to maintain freshwater and marine ecosystems.

Section 5.5.3. Applicability.

A. Except as provided under Section 5.5.4, Exemption, the landscape standards of this section shall apply to all new construction of single-family homes and duplexes, and to all other new construction requiring SDP review under Article 3. The landscape standards of this section are in addition to any landscape standards for specific land uses as established in Chapter 10, Specific Use Regulations, of this Article.

B. Additionally, all landscape standards of this section shall apply to amendments to a site plan that would have the effect of:

1. Increasing the total square footage of any one building or the total square footage of all buildings on a site by more than 20%;
2. Increasing the number of buildings; or
3. Adding any new or expanding any existing off-street parking area.

C. The existing portion of an amended or expanded project which is demonstrated to be completely and fully in compliance with an approved landscape plan at the time of application is not required to be modified to comply with this section.

D. All areas of an existing project affected by an amendment or expansion or those areas that are not in full compliance with an approved landscape plan are required to comply with this section.

E. No certificate of occupancy or certificate of completion shall be issued until the Department of Community Development (DCD) has determined that the applicant has complied with all the provisions of this section and has approved the finished landscape product.

Section 5.5.4. Exemption.

These regulations do not apply to projects located where the City Council has established specific landscape standards for a unique area of the city; unless the specific landscape standards otherwise expressly state their applicability.

Section 5.5.5. Conflicts.

If any of the landscape standards of this section conflict with any other provision of the City of Cape Coral Code of Ordinances or the LDC the provision that establishes the more specific standard governs. If neither

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conflicting provision establishes a more specific standard, then the more stringent provision governs unless otherwise expressly provided.

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.

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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.

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

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Areca Palm	<i>Chrysalidocarpus lutescens</i> (<i>Dypsis lutescens</i>)	No minimum distance	No minimum distance
Bamboo Palm	<i>Chamedorea</i> spp.	No minimum distance	No minimum distance
Cabbage Palm (Sabal Palm)	<i>Sabal palmetto</i>	8	13
Canary Island Date Palm	<i>Phoenix canariensis</i>	15	21
Chinese Fan Palm	<i>Livistonia chinensis</i>	8	13
Christmas Palm	<i>Adonidia merrillii</i> (<i>Veitchii merrillii</i>)	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 macarthurii</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 roebellinii</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 reclinata</i>	8	16
Silver Palm	<i>Coccothrinax argentata</i>	No minimum distance	No minimum distance
Solitaire (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

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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	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	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	Chrysophyllum oliviforme	12	15
Shady Lady Black Olive	Bucida buceras "Shady Lady"	No minimum distance	15
Tabebuia, pink or yellow	Tabebuia spp.	10	15

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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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.
2. The protective barrier may encompass more than one tree, and shall be established with a barrier as follows:
 - a. Posts shall be implanted in the ground deep enough to be stable and with at least three feet visible above ground.
 - b. The protective posts shall be placed not more than six feet apart and shall be linked together at a height of at least three feet by rope, chain, silt fence fabric, or orange safety fence at least three feet in height, or any combination thereof.
3. Required protective barriers and perimeter lines shall remain in place until all construction activity, except landscaping within the protected area, is terminated.

C. Construction activity limitations.

1. No attachment, wires (other than supportive wires), signs or permits may be fastened to any tree that is not to be removed.
2. Landscaping activities within the area of the protective barrier (before and after it is removed) shall be accomplished with manual labor or light machinery that, if self-propelled, is not designed to bear the weight of the operator. Such light machinery may include string trimmers, walk-behind lawn mowers, or chainsaws. Except as necessary to perform landscaping activities as described above, no construction personnel shall enter the area within the protective barrier. Further, no equipment, tools, construction materials, debris of any kind, or more than six inches of soil shall be placed within the protective barrier.
3. If fill is deposited adjacent to a protective barrier, a suitable temporary or permanent retaining structure shall be constructed to prevent siltation within the area of the protective barrier.
4. If it can be reasonably accomplished, water, sewer, and other utility lines should be routed around the protective barrier of trees that are not to be removed. If a line cannot reasonably be routed around the protective barrier, the line shall be tunneled beneath the area and shall be offset to 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 lebbeck
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

- 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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- C. City of Cape Coral and state-prohibited vegetation shall be removed from all sites prior to issuance of certificate of occupancy or certificate of completion.

Section 5.5.10. Quality, size, spacing, and species mix.

All plant materials required by this section shall conform to the following at the time of planting:

- 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.

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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
1 - 4	1
5 - 10	2
11 - 20	3
21 - 30	4
31+	5

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:

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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.

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

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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

- 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

- 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.
- 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.
 - 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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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.

F. Irrigation systems. Irrigation systems are encouraged but not required; however, where they are installed, they shall meet the standards of Section 5.5.14.

Section 5.5.13. Landscaping for all development other than single-family homes and duplexes.

The provisions of this section shall not apply to single-family homes and duplexes unless otherwise specifically stated herein. 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. Shrubs 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. The right-of-way from the edge of the street pavement to the property line shall be planted in accordance with the requirements of subsection B. below.

A. Tree planting requirements.

1. Except in the South Cape District, all sites, exclusive of buffer areas, shall have at least one canopy tree for each 1,000 square feet of gross land area, except that accent trees or palm trees may be substituted for a required canopy tree as indicated below. Trees required for buffers may be used for meeting the minimum number of trees required for a site. In the South Cape District, all sites shall have at least one canopy tree for each 3,500 square feet of gross land area, except that accent trees or palm trees may be substituted for a required canopy tree as indicated below. For all districts, in the event the calculation of required number of canopy trees yields a fractional number, that number shall be rounded up to the next highest whole number prior to any calculation of the quantity of substituted accent trees or palm trees. Trees planted to meet the other requirements of this section can be included in the calculation of total number of trees required by this section. Such trees may be planted singularly or grouped together. Required canopy trees shall not be spaced less than 20 feet on center. Except in the South Cape District, each canopy tree shall be planted in a minimum planting area of 100 square feet with a minimum dimension of seven feet in width unless an alternative minimum planting area or dimensions are approved by the Director, based on planting details that ensure reasonable soil surface and planting medium volumes.

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2. In the South Cape District, each canopy tree shall be planted a minimum planting area of 24 square feet with a minimum dimension of four feet in width unless an alternative minimum planting area or dimensions are approved by the Director, based on planting details that ensure reasonable soil surface and planting medium volumes. Except in the South Cape District not more than 50% of the required canopy trees may be substituted with accent trees or palm trees in accordance with Section 5.5.13. In the South Cape District, not more than 25% of the required canopy trees may be substituted with accent trees or palm trees, in accordance with Section 5.5.13., as follows:
- a. Accent trees may be substituted for required canopy trees at a rate of two accent trees for each canopy tree required; however, no canopy tree required for a landscape buffer yard shall be substituted with an accent tree, unless the minimum width of available buffer yard options would preclude compliance with the minimum separation distance between trees and overhead power lines.
 - 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	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.

- 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.
- 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

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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.

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.

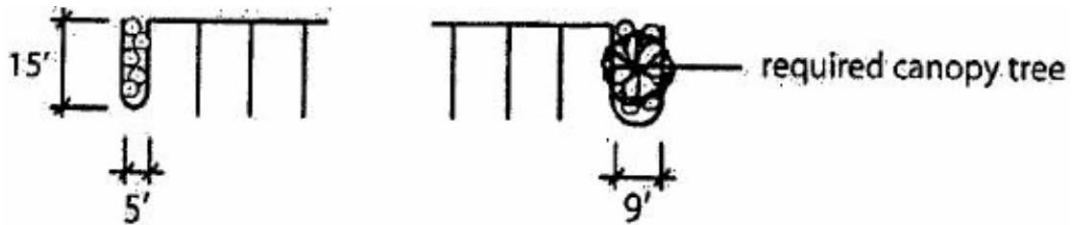
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- C. Landscape design features. Six types of landscaping may be required on a site, depending on the site location and the specific elements of the development: foundation landscaping, landscaping adjacent to roads, off-street parking and vehicle use 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.
1. Foundation Landscaping. To provide aesthetic relief between a building and off-street parking or vehicular use areas, all new development, except development in the Industrial District and South Cape District, must provide foundation landscaped areas equal to 10% of the proposed building gross ground level floor area. These foundation landscaped areas must be between the off-street parking area and the building, between public streets and the building, or between vehicular access ways and the building, or any combination thereof, with emphasis on the side(s) most visible to the public. Foundation landscaping may consist of surface level landscaped areas, raised planters, planter boxes, or any combination thereof. The width of the foundation landscaped areas shall be five feet, except for sites less than one acre with an average depth less than or equal to 135 feet, in which case the width shall be three feet. Foundation landscaped areas may be planted with trees, but must be planted with shrubs spaced a maximum of three feet on centers.
 2. Landscaping Adjacent to Roads. Where a development site abuts a public right-of-way, excluding a dedicated alley, the following shall apply except within Mixed-Use Districts:
 - a. Except as otherwise provided herein, a strip of land, a minimum of ten feet in width, shall be provided between the abutting right-of-way and any structure or off-street parking area. For sites or portions of sites that are 135 feet or less in depth, the width may be reduced to five feet.
 - b. At a minimum, perimeter landscaping in this area shall consist of the following:
 - i. One shrub for every three linear feet of landscaped area, planted separately or grouped, except where a carport or an off-street parking or vehicular use area abuts the strip of land that is required adjacent to roads. Where a carport or an off-street parking or vehicular use area abuts the strip of land required adjacent to roads, a continuous hedge, consisting of shrubs spaced no greater than three feet on center is required.
 - ii. The requirement for canopy trees or accent trees depends on the presence of overhead electric distribution or transmission lines. Shade or accent trees shall be provided as follows:
 - (a) Except as provided below, one canopy tree for each 30 linear feet of frontage is required. If the calculations yield a fractional number, that number shall be rounded up to the next highest whole number. Trees may be placed in any arrangement within the landscape strip provided that the spacing between tree trunks is no greater than 60 feet.
 - (b) In locations where an adequate separation distance from overhead distribution or transmission lines, as specified in Table 1, § 5.2.7., is not available, two accent trees may be substituted for any shade tree required for each 30 linear feet of frontage.

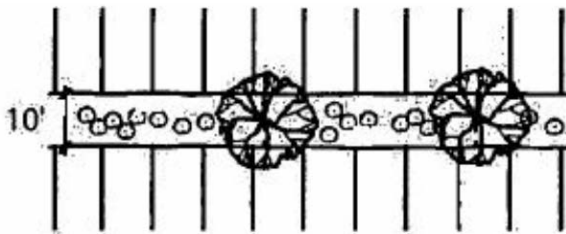
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- 2579
- 2580 c. Ingress and egress from the public right-of-way through all such landscaping to off-street
- 2581 parking or other vehicular use areas shall be permitted and may be subtracted from the linear
- 2582 dimension used to determine the number of trees and shrubs required.
- 2583
- 2584 d. Visibility triangles. As an aid to allow for safe operation of vehicles, pedestrians, and cyclists
- 2585 in the proximity of intersecting streets, driveways, alleys, and bicycle paths, there shall be
- 2586 limitations on the height of fences, walls, gateways, ornamental structures, signs, hedges,
- 2587 shrubbery, and other fixtures as visually depicted in the Cape Coral Engineering and Design
- 2588 Standards and as follows:
- 2589 i. All landscaping and signs within the visibility triangle shall provide unobstructed
- 2590 visibility between 30 inches and eight feet, with the exception of tree trunks that do not
- 2591 create a traffic hazard.
- 2592 ii. The property owner shall be responsible for maintaining all landscaping within the
- 2593 visibility triangle to provide the unobstructed visibility.
- 2594 iii. The Community Development Director shall make the final determination regarding
- 2595 visibility triangles.
- 2596
- 2597 3. Off-street parking and vehicle use areas. The provisions of this section apply to all new off-street
- 2598 parking or other vehicular use areas not situated directly beneath a building containing habitable
- 2599 space.
- 2600
- 2601 a. Protection of landscaped areas from vehicular encroachment. When a landscaped area abuts
- 2602 or is within an off-street parking or vehicular use area, wheel stops or curbing shall be used
- 2603 to protect landscaped areas from encroachment. The placement of shrubs and trees shall be
- 2604 in accordance with the Parking Lot Standards of the City of Cape Coral Engineering Design
- 2605 Standards.
- 2606
- 2607 b. Except in the South Cape District, landscaping for sites with both of the following: 1) an average
- 2608 depth less than or equal to 135 feet and 2) an area less than or equal to one acre. All off-street
- 2609 parking areas shall be landscaped to provide visual relief and cooling effects and to define
- 2610 logical areas for pedestrian and vehicular circulation, as follows:
- 2611
- 2612 i. Minimum landscaped area. Landscaped areas including, but not limited to, landscaped
- 2613 islands, foundation landscaping, and landscaping within divider medians shall equal or
- 2614 exceed a minimum of 5% of the total off-street parking and vehicle use areas.
- 2615 ii. Tree planting. At least one canopy tree shall be provided for every 150 square feet of
- 2616 required planting area. Palm trees may be substituted for canopy trees in accordance with
- 2617 this Chapter.
- 2618 iii. Divider medians. Where canopy trees are planted in divider medians, the minimum width
- 2619 of the divider median shall be nine feet.
- 2620 iv. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing
- 2621 ten or more parking spaces shall be terminated by a landscaped area at each end that
- 2622 measures not less than five feet in width and not less than 15 feet in length. No trees shall
- 2623 be planted in landscaped islands less than nine feet in width.
- 2624

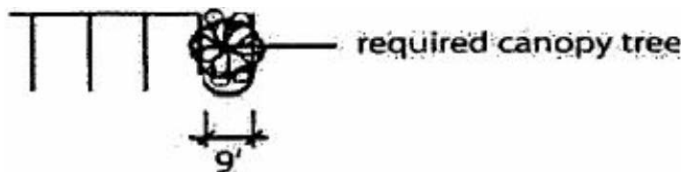
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- c. Except in the South Cape District, landscaping for sites with either of the following: 1) an average depth greater than 135 feet; or 2) an area greater than one acre. All off-street parking areas shall be landscaped to provide visual relief and 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.



- 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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- 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.
- ii. 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.
- iii. 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.
- iii. 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 or detention areas.
- a. Planting of trees, palm trees, shrubs, and groundcovers in retention or detention areas is encouraged, provided that the placement does not conflict with the volume of storage required for the retention or detention areas and does not significantly interfere with or impede the flow of runoff in the retention or detention area.
- b. All retention or 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

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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

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

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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							

- 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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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.

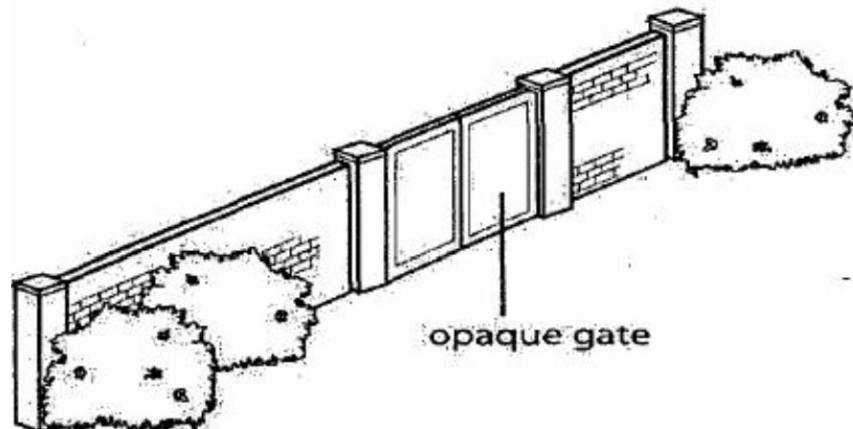
- i. Whenever a wall is required within a buffer, it is shown in Table 5.5.13.B.
- ii. Where the buffer requires a berm, the berm shall be graded to appear smooth, rounded, and natural. Slopes shall not exceed a 3:1 grade.
- iii. Whenever a wall is required within a buffer, the wall shall conform to all requirements of Article 5 Section 2, and the requirements herein, and all other requirements for a wall. The wall may be placed anywhere in the buffer, provided at least 75% of the required trees and 100% of the required shrubs are on the side facing outward toward the right-of-way or abutting property (facing away from the property on which the wall is erected). Bare concrete block, even if painted, is prohibited. 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;
- (b) Textured concrete block;
- (c) Stone;
- (d) Brick; or
- (e) Formed, decorative, or precast concrete.

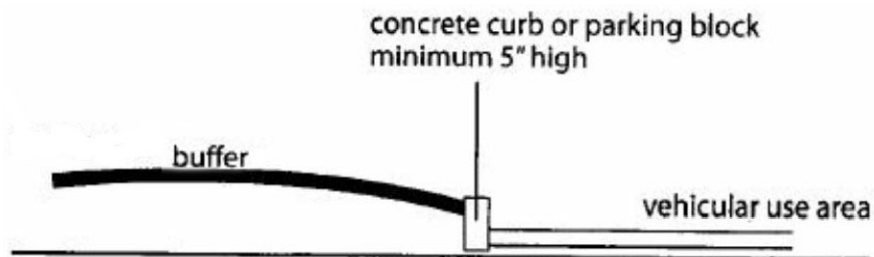
- iv. Whenever a wall is required within a buffer, it shall be 100% opaque and shall be the maximum height allowed for the use and the location of the wall.

- 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.



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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- 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.

- A. Tree credits for all development other than single-family homes and duplexes are available, to encourage the planting of larger trees than are otherwise required and to preserve trees existing on development sites. Based on the gross square feet of land area, each tree credit earned can count toward the number of trees required, subject to limitations indicated below. If tree credits are used, the credits shall be shown in the calculations on the landscape plan. Single-family homes and duplexes are not eligible for the tree credit program provided by this subsection. In no event, shall the number of trees required in a buffer be reduced.
- B. Credit for planting larger canopy trees. One tree credit shall be applied to the overall tree count for each two inches of increased caliper above the minimum planting size specified in this Chapter. In no event, however, shall the actual number of trees be less than one-half of the total number required.
- C. Credit for preserving existing canopy trees. Existing canopy trees in good health and meeting the minimum standards provided in this Chapter that are preserved on a site, and that are 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 trees are located. For purposes of this subsection, development activities include land clearing, construction, grading, or placement of fill. Canopy trees that exceed the minimum size required by Article 5, Section 15 are credited at the following ratios for existing canopy trees:

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

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.

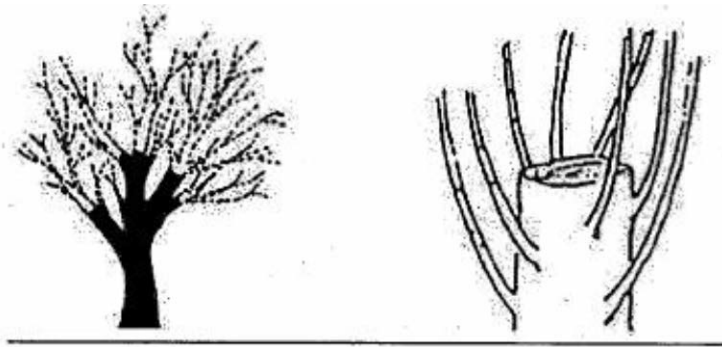
1. Legal nonconforming landscaped areas established. All landscaped areas which were lawful prior to the adoption of this Code but which fail by reason of adoption of such amendment to comply therewith, are hereby declared to be nonconforming. Such nonconforming landscaped areas are hereby declared to 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).

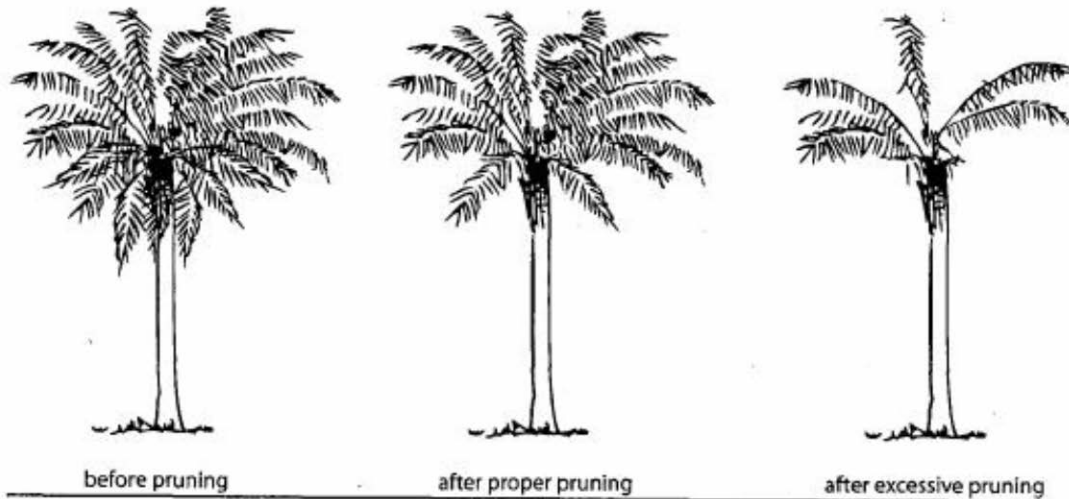


Excessively pruned trees.

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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removed at a single time. This limitation shall not apply to flower stalks or fronds that are yellow or dead.



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;
 - d. A description of the proposed monthly maintenance schedule and the primary and alternate contact information for the parties responsible for maintenance;
 - e. Any additional information reasonably required by the City because of unique circumstances of the project; and
 - f. A non-refundable application fee as established by City Council.

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- 3025
- 3026 B. Median design. Landscaping in medians shall be in accordance with the City of Cape Coral Engineering
- 3027 Design Standards.
- 3028
- 3029 C. Cul-de-sac or roundabout design. Landscaping in cul-de-sacs or roundabouts shall utilize the plants
- 3030 and materials identified below. Such plantings shall be in accordance with the City of Cape Coral
- 3031 Engineering Design Standards.
- 3032
- 3033 1. Trees. Trees shall be of at least ten-gallon size at the time of planting. The following trees are
- 3034 permitted: Mahogany, Wild Tamarind, Yellow or Pink Tabebuia, Buttonwood, Crepe Myrtle,
- 3035 Gumbo Limbo, Southern Magnolia, Paradise tree, Pigeon Plum, Sago Palm, or Pygmy Date Palm.
- 3036 Other types of trees may be permitted providing the criteria established in this section are met.
- 3037 The prohibited vegetation standards of this Chapter shall apply in cul-de-sacs and roundabouts.
- 3038
- 3039 2. Shrubs. Shrubs to be planted should be durable in harsh conditions with slow, unobtrusive growth
- 3040 habits. All shrubs shall be of at least three-gallon size at the time of planting. The following shrubs
- 3041 are recommended for planting: Carissa, Cocoplum, Yaupon Holly, Myrsine, Necklace Pod,
- 3042 Podocarpus, and Wax Myrtle. Other types of shrubs may be permitted providing the criteria
- 3043 established in this section are met.
- 3044
- 3045 3. Other vegetation. The planting of flowers or any vegetation (other than approved trees or shrubs)
- 3046 by any private person or entity on cul-de-sac or roundabout owned by the city is prohibited. In
- 3047 addition, cul-de-sacs or roundabouts shall be left in sod. A small bed immediately surrounding a
- 3048 tree or shrub may be mulched.
- 3049
- 3050 D. Prohibited vegetation. The prohibited vegetation standards of section 9 of this article shall apply in
- 3051 medians.
- 3052
- 3053 E. Review criteria. In determining whether a permit will be issued, the city shall consider factors that
- 3054 include, but are not limited to, the following:
- 3055
- 3056 1. Relationship to traffic and pedestrian safety;
- 3057
- 3058 2. Location of existing and proposed public utilities, power lines, and other right-of-way
- 3059 improvements;
- 3060
- 3061 3. Effect on surface waters and drainage patterns;
- 3062
- 3063 4. Aesthetic effect of the proposed landscaping, including whether the resultant theme would be
- 3064 consistent throughout the specific median, and whether the proposed landscaping would
- 3065 coordinate with the landscape theme, if any, established in the vicinity;
- 3066
- 3067 5. Type, size, and location of any extant plant materials and hardscape materials, if any;
- 3068
- 3069 6. Type, size, and location of proposed plant materials and hardscape materials on the median;
- 3070

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- 3071 7. Method of removal of existing plant materials and hardscape materials;
3072
3073 8. Adequacy of proposed irrigation, its expense to the city, and availability of water supply;
3074
3075 9. The city's ability to maintain the landscaping in the event that the permittee fails to do so including
3076 economic ability, manpower, and location of the median, and
3077
3078 10. Potential sight obstructions and compliance with all standards and regulations regarding sight
3079 distances and clear zones.
3080

3081 F. Approval.
3082

- 3083 1. In its approval of any permit request, the city may request modifications, which may include:
3084
3085 a. The planting plan, including the design to ensure integration with the aesthetic character of
3086 the neighborhood, the requirement that the entire median be included in the design, as well
3087 as to plant sizes, species, location, and nature placement of hardscape materials;
3088
3089 b. Plant installation or removal methods or specifications;
3090
3091 c. Regulation of the commencement and completion date, work hours, or phasing of installation
3092 or removal;
3093
3094 d. The proposed maintenance schedule;
3095
3096 e. Requirement of a financial instrument to ensure maintenance or removal of the landscaping;
3097
3098 f. Requirement that all or part of the landscaping be installed and maintained by a licensed
3099 landscape contractor or certified arborist;
3100
3101 g. Requirement that temporary traffic control measures be implemented by a barricade
3102 company with certification by the American Traffic Safety Services Association (ATSSA) or the
3103 International Municipal Signal Association (IMSA);
3104
3105 h. Requirement that curbing be installed;
3106
3107 i. Requirement that erosion control measures be implemented; and
3108
3109 j. Submission of a hold harmless agreement acceptable to the city.
3110
3111 2. The permittee shall be responsible for compliance with the permit along with the maintenance of
3112 the landscaping. The limitation on the time for installing landscape materials shall not apply to
3113 replacement of materials as part of maintenance. The maintenance obligations shall remain in full
3114 force and effect for the life of the landscaping.
3115

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3. Approval of a permit to install landscape materials shall not obviate the requirement to obtain all other necessary permits, including permits for irrigation and signs.

- G. Changes subsequent to approval. After a planting plan has been approved, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms of the planting plan without first obtaining written approval of an amendment to the planting plan. Modifications that require approval of an amended landscape plan include the following:

1. Replacement of any plant indicated on an approved planting plan with a plant of a different species; or
2. Modification of the location of any plants or other landscape materials.

The city may impose a reasonable fee for the review and approval of an application for an amendment to a planting plan. An application for an amendment shall be reviewed in accordance with the standards herein. The replacement of plants indicated on an approved landscape plan with plants of the same species shall not require the submission of an amended landscape plan.

- H. Permit expiration. 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.

- I. 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.

- J. 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 median.

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 Compliance Special Magistrate to hear and adjudicate appropriate cases.

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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. The City is not required to replace any landscaping removed pursuant to this section.

- K. Revocation. If any requirements of the approval are not satisfied, the city may revoke or stop work on any permit issued pursuant to this subsection.

Section 5.5.18. 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.
- B. Refer to Section 5.1.9 for landscaping that may be installed within the lateral right-of-way without a permit or registration certificate.
- C. Placement of planting material. In the South Cape Downtown District, in order to provide a cohesive urban streetscape, applicants may enter into an agreement with the city for placement of planting material in the lateral right-of-way. In all other districts, the planting of trees, palm trees, and shrubs, and the placement of the tree bed(s) shall be allowed in the city-owned lateral right-of-way subject to the following restrictions:
1. The property owner must call the Sunshine 811 notification service to have all underground utilities located and marked on the ground prior to installation of any landscape material. All excavation on public property, rights-of-way, or dedicated easements shall comply with the requirements of F.S. 556. **UNDERGROUND FACILITY DAMAGE PREVENTION AND SAFETY.**
 2. Where potable water, irrigation or sanitary sewer force mains are located within the right of way, the property owner must contact the Utility Department to confirm the location of proposed canopy trees and palm trees.
 3. No canopy tree shall be planted within 10 feet of existing or proposed drainage inlet or potable water, irrigation and sanitary sewer force mains.
 4. No palm tree with a mature diameter of 8 inches or greater shall be planted within 5 feet of existing or proposed drainage inlet or potable water, irrigation and sanitary sewer force mains
 5. Planting near overhead utility infrastructure shall be in accordance with the requirements of Section 5.5.7 of this article;
 6. One or more trees may be immediately surrounded by a bed consisting of landscape edging materials, bedding plants or groundcover, and mulch or decorative rock so long as the size of the bed is reasonably related to the size and number of trees contained therein. Groundcover or annual bedding plants shall be permitted within the tree bed. Unless otherwise permitted, no other landscape edging material, concrete curbing, bedding plant or groundcover, mulch, or 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);

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.

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.

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:

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.

E. 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 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.

Section 5.5.20. Deviations.

- 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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- 3299
- 3300 1. Landscape details that are unique or that are exceptional in quality by virtue of artistic
- 3301 composition, quality of materials, dimensional attributes, or any combination thereof;
- 3302
- 3303 2. Plant massing that evokes exceptional expression through use of angularity, curvature, or other
- 3304 means;
- 3305
- 3306 3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
- 3307
- 3308 4. Other details or forms that preclude visual monotony and are pleasing in aesthetic character.
- 3309
- 3310 D. Requests for deviations and the reasons therefore shall be set forth by the applicant in the application
- 3311 for deviation and shall be accompanied by documentation including, a narrative that clearly defines
- 3312 the section(s) of the regulations of the requested deviation, a narrative explanation as to the reason
- 3313 for the requested deviation and why it should be approved, sample detail drawings, elevations, and
- 3314 perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each
- 3315 deviation would operate to the benefit, or at least not to the detriment, of the public interest.
- 3316
- 3317 E. For deviations to avoid unnecessary or undue hardship, the Director subject to these standards and
- 3318 criteria, shall approve only the minimum deviation from the provisions of this section. For deviations
- 3319 to avoid the inhibition of innovation or creativity in design, the Director shall approve deviations
- 3320 necessary to enhance the unique and innovative design. The Director may impose reasonable
- 3321 conditions of approval in conformity with this section. Violation of such conditions and safeguards,
- 3322 when made a part of the terms under which a deviation is granted, shall be deemed a violation of this
- 3323 section and shall be enforceable not only by revocation of the deviation, but also by all other remedies
- 3324 available to the city, including all code enforcement procedures.
- 3325

3326 **CHAPTER 6. LIGHTING.**

3327

3328 **Section. 5.6.1. Purpose and applicability.**

3329

3330 The purpose and intent of this Section is to create outdoor lighting standards that promote the health,

3331 safety, and welfare of the residents and decrease the impacts of ambient lighting on the natural sky by

3332 establishing maximum intensities of lighting and controlling glare from lighting fixtures. The provisions

3333 of this article shall apply to all permanent outdoor lighting from any light source in nonresidential

3334 development.

3335

3336 **Section. 5.6.2. Outdoor lighting standards.**

3337

- 3338 A. Outdoor lighting fixtures. All outdoor lighting fixtures shall be installed in such a manner that the
- 3339 source of each individual light is shielded, positioned, and maintained so as not to be visible off the
- 3340 premises.
- 3341
- 3342 B. Light shielding for parking lot illumination. All parking lot lighting shall have no light emitted above
- 3343 90 degrees.
- 3344

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- C. Outdoor lighting fixtures adjacent to residential. Any outdoor lighting fixture providing light to any parcel adjacent to a residentially zoned parcel, whether adjoining or not, shall emit no more than 0.1 foot-candles of light, as measured from the property line of the adjacent residential parcel, using a standard light meter, the cell of which is directed towards the source of the light.
- D. All areas designed for use after daylight hours shall be adequately lit, in accordance with Table 5.6.2. below.

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

- E. Illumination ratio. Luminaire fixtures in parking lots shall be arranged in order to provide uniform illumination throughout the parking lot area of not more than a 4:1 ratio of average to minimum illumination, and not more than 12:1 ratio of maximum to minimum illumination.
- F. Automatic Switching Requirements. Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch, or equivalent functions from a programmable lighting controller, building automation system, or lighting energy management system, all with battery or similar backup power or device.
- B. Modifications. Additions, modifications, or replacement of more than 25 percent of outdoor lighting fixtures existing as of the effective date of this ordinance shall require the submission of a complete inventory and photometric plan detailing all existing and any proposed new outdoor lighting. Any new lighting shall meet the requirements of this ordinance.
- C. Exempt lighting. The provisions above shall not apply to streetlights, single-family residences, duplexes, or governmental facilities.

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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All rooftop equipment shall be screened from view from the right-of-way or adjacent properties by the use of a parapet wall or other architectural feature to screen the equipment or shall be set back adequately from the building edge to conceal the equipment from adjacent properties at ground level.

Section. 5.7.2. Screening of storage areas.

- A. All permitted storage areas shall be screened from adjacent properties and the right-of-way. Permissible screening materials include:
- B. A six-foot high wall of concrete or similar approved material, Section. 5.2.7 on walls;
- C. A six-foot high opaque fence of an approved material, Section. 5.2.7 fences; or
- D. A vegetative buffer, consisting of two staggered rows of shrubs a minimum of three feet tall at planting. The buffer shall create a dense barrier, at 80% opacity, within two years.

Section. 5.7.3. Air conditioning units and mechanical equipment.

- A. All mechanical equipment at ground level shall be screened from adjacent property and the right-of-way. When possible, sound deadening materials shall be used. Permissible screening materials include:
 - 1. A wall or opaque fence of adequate height to screen the view of the equipment, see Section. 5.2.7 for approved materials.
 - 2. A vegetative buffer, which meets the specifications in Section 5.6 for a four-foot tall buffer.

Section. 5.7.4. Permanently installed stand-by generators.

Permanently installed stand-by generators serving all properties other than single-family and duplex residences where life and safety does not depend on the performance of the system.

- A. The generator may only be used in emergency situations when there is a power outage.
- B. Repairs and testing may only occur during daylight hours a maximum of once per week.
- C. Installation of a generator shall comply with the following restrictions:
 - 1. The generator shall not encroach more than three feet into any required setback, and in no case shall be any closer than two and one-half feet from any property line. The generator shall not be installed in an easement.
 - 2. The generator shall be screened from public view by:
 - a. A vegetative buffer which meets the specifications in Section 5.6 for a five-foot high hedge;
 - or

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b. A wall or opaque fence, of an adequate height to screen the equipment, which meets the specifications of Section 5.2.7.

3. Permanent signs shall be placed at the electrical service indicating the type and location of the generator.

CHAPTER 8. NON-RESIDENTIAL DESIGN STANDARDS.

Section 5.8.1. Purpose and Intent.

The appearance of non-residential and mixed-use development affects the visual image and attractiveness of the City of Cape Coral. Utilitarian design and developments with minimal architectural features detract from the city's image and character. The purpose and intent of the non-residential design standards is to promote the City as an attractive destination for tourists and residents, and to support economic vitality while protecting the public health, safety, and welfare. These regulations intend to:

- A. Enhance the visual image and attractiveness of the City;
- B. Establish reasonable standards that offer flexible and diverse design options;
- C. Ensure development in Cape Coral is of consistent high quality and character; and
- D. Regulate site layout and architectural features to ensure aesthetic and visual interest.

Section 5.8.2. Applicability.

- A. The standards of this section shall apply to all non-residential and mixed-use development for which application for site plan approval, or a building permit is made.
- B. These design standards shall apply to existing development if a building's gross floor area is increased by 50% or more.
- C. Development on Industrial zoned sites shall be exempt from these standards.
- D. The design standards of this section do not apply when the City Council has established specific design standards for a unique area of the city unless the specific design standards otherwise expressly state their applicability.

Section 5.8.3. Exemptions.

The following types of buildings shall be exempt from the non-residential design standards.

- A. Any building that has received a temporary use permit.
- B. Any accessory structure.

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C. Bona fide agricultural buildings in the Agricultural and RE Districts such as barns and stables.

D. Guard houses.

E. Government facilities that are screened or not visible from a public street.

F. Model homes.

G. Municipal pump station buildings.

H. Self-storage buildings provided the buildings are enclosed with a wall with a minimum height of eight feet.

I. Pavilions, carports, gas canopies, and similar buildings that have support posts or columns but no sides except for roof treatments as required in Section 5.8.8.

J. Buildings similar to those listed above as determined by the Director.

Section 5.8.4. Conflicts.

If any of the non-residential and mixed-use design standards of this section conflict with any other provision of the City of Cape Coral Code of Ordinances or Land Development Code, the provision that establishes the more specific standard or architectural theme governs. If neither conflicting provision establishes a specific standard or architectural theme, then the more restrictive provision governs unless otherwise expressly provided.

Section 5.8.5. Appearance, Building Mass, and Design Treatments.

A. Consistency Within a Development. Except for buildings on outparcels that contain only one unit, designed and constructed to be occupied by a single end user, regardless of the number of business operations conducted within the single unit, buildings within a development shall be designed with color schemes, building materials, finishes, roof types, roof lines, and exterior roof finishing consistent with or that resemble those of the principal building or structure on the main parcel(s).

B. Consistency and Integrity of Building Components. All portions of any exterior side of a building, extending from finished grade to the top of the parapet wall or eaves, extending the entire width of the side of a building, must be designed with consistent architectural style, detail and trim features. All architectural features other than parapet walls, including towers or cupolas, shall be designed so as to have an equivalent character from any ground-level angle from which they can be viewed.

C. Glazing.

1. For buildings abutting and facing a public street, 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.

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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.
- D. Sides of a building. For buildings located on outparcels, all exterior sides of a building shall comply with this section. Additionally, except for a side of a building built flush with a side lot line, a side of a building that faces a rear lot line of an abutting property, and a side of a building that faces a property line that abuts an alley, all sides of a building shall comply with the standards of this section.
1. All exterior sides of a building subject to this subsection shall include a repeating or varying pattern and shall comply with both design elements listed below. At least one of the three design elements shall repeat horizontally. All elements shall repeat or alternate at intervals of no more than 50 feet, either horizontally or vertically.
- a. Each wall shall provide visual differentiation of wall surfaces through variations in a minimum of one of the following:
- i. Building materials;
 - ii. Finish textures; or
 - iii. Color.
- b. Each wall shall provide a minimum of two of the following architectural features:
- i. Columns;
 - ii. Pilasters;
 - iii. Awnings;
 - iv. Canopies;
 - v. Reveals (if provided shall have a minimum depth of ½ inch);
 - vi. Corbels;
 - vii. Quoins ;
 - viii. Keystones;
 - ix. Cornices (if provided shall have a minimum height of four inches); or
 - x. Other features as determined by the DCD Director that provide articulation or reduce building massing.
2. All exterior sides of a building shall provide a minimum number of design elements among elements a. thru r. below in accordance with the gross square footage of a building, as provided herein. Required design elements may be located on an exterior wall of a building, on the roof of the building, or on both the wall(s) and the roof of a building, as applicable. If located on a roof, the design element shall be located on a portion of the roof that faces in the same direction as the exterior wall. It is not the intent of this section, however, to require the design elements to be on both the exterior wall(s) and the roof.

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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

- a. Architectural features and detailing that create a frame and definition to the primary public entrance;
- b. One or more canopies or awnings that extend a total length of at least 30% of the length of any side of a building subject to this subsection;
- c. One or more attached porticos;
- d. Peaked or arched roof form;
- e. Overhanging eaves a minimum of 18 inches wide on all portions of a building with a pitched roof;
- f. Arcade;
- g. Colonnade;
- h. Arches or arched forms other than roof forms or an arcade;
- i. Windows or glazing that exceed the minimum glazing requirements of Subsection 5.8.5.C. by a minimum of 10% for a wall;
- j. Ornamental or structural details, including, banding or moldings used throughout the exterior building walls that add decoration and detail to a building roofline, building openings, or windows;
- k. Two or more ornamental or structural details that are horizontally continuous (except for interruptions for doors and windows), which may include belt courses or any type of three-dimensional molding, banding, projections, recesses, or niches that help to define a base, body, and cap to the proposed building;
- l. A tower such as a clock tower or bell tower;
- m. A cupola;
- n. Sculptured artwork (excluding corporate logos or advertising);
- o. Vertical articulation of walls, including pilasters, columns, or other relief with maximum separation of one third of the wall on which they are located, not to exceed a separation of 100 feet;

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- p. Planter boxes that are integrated into the building architecture or wing walls that incorporate landscaped areas or places for sitting; or
- q. Curved wall containing an uninterrupted curve along at least 10% of the length of any side of a building subject to this subsection.
- 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 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.

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- 3652
- 3653 B. Textured or ribbed concrete block, e.g. "split-face block".
- 3654
- 3655 C. Reinforced concrete of any finish.
- 3656
- 3657 D. Glass or other glazing, whether transparent, translucent, or applied as a veneer. For purposes of this
- 3658 subsection, glazing consists of glass or any material that resembles glass including, but not limited to,
- 3659 Plexiglass or polycarbonate.
- 3660
- 3661 E. Stone or brick, including simulated stone or brick.
- 3662
- 3663 F. Wood, other than plywood or T1-11 type paneling, if termite-resistant species, pressure-treated,
- 3664 painted, or stained.
- 3665
- 3666 G. Fiber-reinforced cement panels or boards.
- 3667
- 3668 H. Tile.
- 3669
- 3670 I. Architectural metal panels, provided that corrugated metal panels shall not exceed 30% of the surface
- 3671 of any wall.
- 3672
- 3673 J. Vinyl siding, provided that vinyl siding shall not exceed 30% of the surface of any wall.
- 3674
- 3675 K. Cargo or shipping containers, provided that any exterior wall of the container is completely sheathed
- 3676 with one of more of the allowable materials listed in this subsection.
- 3677

3678 **Section 5.8.8. Roofs.**

3679

- 3680 A. All non-residential and mixed-use buildings shall have variations in rooflines and roof features that
- 3681 are consistent with the building's mass and scale. In addition, roofs shall include features from at least
- 3682 two of the following five categories below.
- 3683
- 3684 1. Parapet wall provided the parapet extends completely around the building on all sides. However,
- 3685 this requirement shall not prohibit the substitution of a pitched roof in lieu of a parapet for part
- 3686 of a building.
- 3687
- 3688 2. A three-dimensional cornice treatment, a minimum of four inches high (not applicable along any
- 3689 portion of a wall that is built flush to the side lot line). Flashing at the top of a parapet shall not
- 3690 qualify as a cornice. Cornices shall return a minimum of eight feet around corners that transition
- 3691 from a building wall that requires a cornice to a building wall that does not require a cornice.
- 3692
- 3693 3. Varied roof lines with different roof heights and or separate or distinct roof segments that fall at
- 3694 different horizontal planes above the cornice line;
- 3695

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4. Overhanging eaves that extend at least 18 inches beyond the supporting walls, with a minimum fascia of six inches in height (not applicable along any portion of a wall that is built flush to the side lot line);

5. Vertical variation in the roof line with a minimum change in elevation of two feet.

B. Pitched roofs such as gable, hip, shed or mansard roofs shall be clad with highly durable materials such as standing seam metal, slate, ceramic, or fireproof composite tiles. Fiberglass and asphalt shingles are prohibited except for dimensional grade or better.

1. Allowed slope. Pitched roofs shall have a minimum slope of three feet vertical rise for every 12 feet of horizontal run. The maximum slope of a pitched roof shall not exceed a one-foot vertical rise for every one foot of horizontal run.

C. Roofs covering pavilions, carports, gas canopies, and similar structures with support posts or columns but no sides. Buildings with roofs that lack walls, whether free-standing or attached to another building, shall have a minimum slope of three feet vertical rise for every 12 feet of horizontal run. Unless a roof with an alternative design is approved by the DCD Director, all roofs are required to possess a pitched roof with a minimum slope of three feet vertical rise for every 12 feet of horizontal run. The DCD Director shall consider the following two criteria in determining whether to approve a roof with an alternative design:

1. Whether the design of the roof evokes exceptional expression through the use of angularity, curvature, or other means; or

2. Whether the design of the roof precludes visual monotony and enhances the aesthetic character.

Flat and parapet roofs are prohibited for buildings covered by this subsection.

Section 5.8.9. Building Design Standards in the SC and MXB Districts.

A. All buildings, whether residential, nonresidential or compound use, shall conform to the design standards provided herein., except as superseded by the following requirements.

B. Public entrances. Public entrances shall be provided as follows:

1. Any building facade that faces a street (excluding alleys) shall provide a public entrance oriented toward such street. In the case of a corner lot where more than one building facade faces a street, a corner entrance may serve to meet the requirements for the two streets that intersect and create the corner. All public entrances shall have convenient pedestrian access providing a direct connection from the street to the entrance via a walkway a minimum of four feet in width and not traversing any portion of an off-street parking area. In the event the City determines that this provision cannot be met due to site constraints, such walkway may traverse the off-street parking area but shall be clearly delineated by a change in paving material, pavement markings, or similar treatment.

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2. Any building facade that faces a dedicated city parking area shall provide a public entrance oriented toward such dedicated city parking area with convenient pedestrian access providing a direct connection via a walkway a minimum of four feet in width.
 3. It is not the intent of these provisions to require more than two public entrances to any use intended to be occupied by a single tenant. In the event that the provisions above cumulatively require more than two public entrances, then the requirements may be reduced such that two public entrances shall be required. In determining the orientation of such public entrances. Parkway street designations and dedicated city parking areas shall have priority.
- C. Transparency of building walls. Except for parking structures, building walls shall contain transparent windows, doors, or any combination thereof, meeting the following standards:
1. For lots abutting primary or secondary street designations, transparent windows, doors, or any combination thereof, shall cover at least 50% of the first story building wall area that faces the primary or secondary street designation. Above the first story, non-residential uses, except hotels, shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area; residential and hotel uses shall provide at least 15%.
 2. For lots abutting local street designations, non-residential uses, except hotels, shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area that faces the secondary or tertiary street designations; residential and hotel uses shall provide at least 15%.
 3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking areas, non-residential uses, except hotels, shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area that faces the dedicated city parking area; residential and hotel uses shall provide at least 15%.
 4. Non-residential use building walls facing navigable waterways shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area.
 5. The exterior of windows and doors shall remain unshuttered at all times of the day. This provision shall not apply to the following:
 - a. Un-walled areas such as, but not limited to, dining and seating areas associated with restaurants and bars.
 - b. Hurricane shutters or flood-proofing panels during the time period in which a flood watch or warning, a tropical storm watch or warning, or a hurricane watch or warning is in effect for any portion of Lee County. Such shutters or panels shall be removed within a week from the time they are put up, unless a hurricane, tropical storm, or flood has impacted the area, in which case the shutters may remain up for not more than three months from the date of the incident, except for good cause shown to the City.

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- D. Non-residential buildings with a first story consisting of more than 35,000 square feet of floor area and consisting of a single use shall meet the following requirements:
1. One public entrance shall be provided for every 75 feet of overall building frontage; or
 2. Liner buildings meeting the following requirements shall be provided:
 - a. Liner buildings shall be provided along at least 50% of the overall building frontage.
 - b. Liner buildings shall contain active uses with at least one public entrance provided for every 75 feet of liner building frontage. Such liner buildings shall comply with all applicable building setbacks and building frontages.
 - c. Liner buildings shall have an interior depth of at least 15 feet.
 - d. Liner buildings may be detached from, attached to, or integrated into the principal building.
- E. Architectural elements design standards: awnings, canopies, colonnades, arcades, balconies, front porches, stoops/landings, and cupolas. A first story facade facing a street or dedicated city parking area shall provide shade with awnings, canopies, colonnades, arcades, balconies, or any combination thereof, for at least 50% of its length or width, unless prohibited by Article 4, Chapter 5. Architectural elements, or any combination of architectural elements, may occur forward of the minimum setback, as applicable, but shall not extend forward of a lot line. Architectural elements, or any combination of architectural elements shall not encroach into an easement unless approved by the City. The city may require the property the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that result from maintenance or public infrastructure improvements.
1. The City shall consider the following criteria in determining whether to approve an architectural element, or any combination of architectural elements, that would encroach into the easement:
 - a. The extent to which the architectural element would encroach into the easement;
 - b. The effect of such encroachment on any utilities that are either currently located in the easement or that may be located in the easement in the future; and
 - c. The effect of such placement on any abutting properties or streetscape.
 2. Awnings and canopies. Awnings and canopies extending from the first story, facing a street or dedicated city parking area, and serving to meet the 50% length/width requirement of Article 4, Chapter 5 shall conform to the following:
 - a. Depth shall be a five-foot minimum projection from the building facade.
 - b. Height shall be an eight-foot minimum clearance, including suspended signs.

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3. Colonnades and arcades. Colonnades and arcades facing a street or dedicated city parking area shall conform to the following:
- a. Depth shall be a minimum of five feet from the building wall to the inside column face.
 - b. Height shall be an eight-foot minimum clearance, including suspended signs. The lowest point on arches shall not extend below seven feet.
 - c. Openings between piers, columns, or similar supporting elements shall be at least 50% of the colonnade or arcade facade area.
 - d. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be permitted above the colonnade or arcade.
4. Balconies. Balconies shall be open and un-air-conditioned. Balconies may have roofs. Roofed balconies may be enclosed with screen and may contain privacy partitions. Balconies shall not project beyond the rear building setback requirement, as applicable. Balconies shall be located no closer than six feet from the abutting side lot line. Balconies facing a street or dedicated city parking area shall have a height clearance of ten feet minimum from grade; their decorative or supporting elements that project from building walls shall have a clearance of seven feet from grade.
5. Front porches. Front porches shall be un-air-conditioned. may be screened, and shall conform to the following:
- a. Front porches facing a street or dedicated city parking area and serving to meet the minimum building frontage requirements of Article 4, Chapter 5 shall be a minimum of eight feet in depth.
 - b. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be permitted above front porches.
6. Stoops and landings. Stoops and landings may be roofed or unroofed, and shall maintain the required minimum building setback, as applicable. However, access to a stoop, whether by stairs, ramp, or other means, may extend forward of the minimum building setback as applicable, if approved by the Director but shall not be located less than three feet from the front lot line.
7. Cupolas. When provided, cupola(s) shall have a maximum of 400 square feet in horizontal dimension and shall be limited to two per building.
8. Garage doors associated with residential uses, when facing the front of the lot, shall be set back at least 20 feet behind the building line.

Section 5.8.10. Equipment and Loading Areas

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- 3877
- 3878 A. For all non-residential and mixed-use developments, air conditioning, heating, and similar equipment
- 3879 shall be placed on the roof or the ground.
- 3880
- 3881 1. Air conditioning and heating equipment shall be prohibited from being mounted on the side of a
- 3882 building.
- 3883
- 3884 2. Rooftop equipment shall be screened on all sides in a manner consistent with the architectural
- 3885 design of the building. Such screening shall be at least as high as the highest portion of the
- 3886 equipment or apparatus being screened.
- 3887
- 3888 3. Equipment located on the ground shall be located or screened so as not to be visible from any
- 3889 property line abutting a public street other than an alley when viewed along a line perpendicular
- 3890 or radial to such property line. Screening shall consist of a wall, fence, plant material, or any
- 3891 combination thereof. Fences used for screening shall not be constructed of chain link with or
- 3892 without slats and are encouraged to be designed to appear to be constructed of material the same
- 3893 as the building, and to incorporate architectural trim features consistent with the building.
- 3894
- 3895 4. Electric meters and similar panels may be wall-mounted and are subject to the same screening
- 3896 requirements outlined in subsection c. above. In lieu of screening, the equipment may be painted
- 3897 to match the color of the building.
- 3898
- 3899 5. Attic vents and solar panels are exempt from the requirements of this subsection.
- 3900
- 3901 B. Loading areas that are visible from an abutting property with a residential future land use
- 3902 classification or that is separated from a property with a residential future land classification by an
- 3903 alley or a two-lane street shall be screened by a wall that is at least six feet in height, which is
- 3904 constructed of the same material as the building or is designed to appear to be constructed of material
- 3905 the same as the building, and that incorporates architectural trim features consistent with the
- 3906 building, by an earthen berm that is at least six feet in height, or by a combination of wall and berm
- 3907 that is at least six feet in height.
- 3908

3909 **Section 5.8.11. Deviations.**

3910

- 3911 A. Deviations from the provisions of this section may be approved by the Director provided that the
- 3912 deviation will not be contrary to the public interest and will be in harmony with the general intent
- 3913 and purpose of this section and where either of the following applies:
- 3914
- 3915 1. Conditions exist that are not the result of the applicant and which are such that a literal
- 3916 enforcement of the regulations involved would result in unnecessary or undue hardship; or
- 3917
- 3918 2. Literal conformity with the regulations would inhibit innovation or creativity in design.
- 3919
- 3920 B. In determining whether a particular deviation request should be approved as the result of
- 3921 unnecessary or undue hardship, factors the Director shall consider include, but are not limited to, the
- 3922 following: site constraints such as shape, topography, dimensions, and area of the property, the effect

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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 shall be enforceable not only by revocation of the deviation, but also by all other remedies available to the city, including, but not limited to, all code enforcement procedures.

CHAPTER 9. TEMPORARY USES.

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Section. 5.9.1. Purpose and applicability.

- A. The purpose of this Section is to ensure all temporary events and activities are located and coordinated in harmony with the surrounding community. Temporary uses are authorized in this article as temporary accessory or principal uses for time periods proportionate and appropriate to the nature of the temporary use. Temporary uses permitted by this article may not be listed as a use in a particular zoning district. Temporary uses not listed in this article may be permitted through a temporary use agreement approved by the Director of Community Development
- B. All temporary uses and special events approved subject to the standards and requirements set forth under this article are deemed to be a privilege and not a right, which may be revoked by the city for failure to comply with any of the provisions of this article or any other local, state, or federal law governing the event. Approved temporary uses and special events may also be revoked if such revocation is in the best interest of the city based on emergency, disorder, or other unforeseen conditions. Private events held on private property shall not require a temporary use permit. Signs shall be limited to the signs permitted in Section 5.9.10 of this article and shall not be allowed within the right-of-way.
- C. Application for a temporary permit.
1. Temporary use permits shall be coordinated by the Community Development department who may request reviews from the Fire, Police, Building, and Public Works departments as necessary to ensure safety.
 2. If a temporary use or event is proposed at a public park property, an application must be submitted to the Parks and Recreation Department along with any applicable fees and proof of insurance.
 3. Private events held on private property shall not require a temporary use permit.

Section. 5.9.2. Firework, pumpkin, and Christmas tree sales.

Temporary outdoor sales are prohibited, except as provided here in. Excepted seasonal events involving outdoor sales of merchandise shall meet all appropriate requirements of the Building Code, Electrical Code, Fire (Life Safety) Code, and Plumbing Code, particularly regarding temporary sanitary facilities. Temporary outdoor sales are prohibited unless they have applied for and received all required permits in compliance with this Subsection. Firework, pumpkin, and Christmas tree sales may be in all nonresidential zoning districts except the Preservation and Public Zoning Districts subject to the following:

- A. Application. A complete application must be submitted to the Department of Community Development, along with a conceptual site plan.
- B. Dates and hours of operation:

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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:
 1. Except in the South Cape zoning district, such displays may be no closer than 10 feet to the front or rear property lines and five feet to side property lines or 15 feet to the side property line on corner lots.

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2. Displays may not be placed in required parking areas.
3. Displays may be placed on the public sidewalk only directly in front of the lawfully existing business which retails the items being displayed.
4. Displays shall be placed on tables, shelves, or racks that are moved indoors during any hours the business is not open and that do not exceed six feet in height and do not extend more than two feet onto the public sidewalk.
5. Displays shall not impede pedestrian circulation, use of the sidewalk, or ingress and egress to nearby buildings.

- B. Outdoor display of merchandise for sale on vacant property is prohibited, except as permitted for seasonal events in accordance with Section 5.9.2. or special events in accordance with Section 5.9.10.

Section. 5.9.4. Garage sales.

Garage sales may be permitted on a private property in accordance with the following regulations:

- 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.

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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 for essential public facilities 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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- 4151 3. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through
4152 Saturday only;
4153
4154 4. Temporary fencing may be used to enclose the staging area;
4155
4156 5. No structures other than a permitted construction trailer may be placed on the property; and
4157
4158 6. No outdoor lighting is permitted for any staging area in a residential zoning district.
4159
4160 7. The staging area shall be restored upon completion of the work and restoration of any damage
4161 to any City facilities, such as roadside swales, pipes, catch basins, pavement, signs, striping, etc.
4162

- 4163 B. Construction staging areas. Construction staging areas are a permitted activity in all zoning districts,
4164 provided the staging area is on the same parcel where construction activity is authorized by a valid
4165 building permit. Construction staging areas on vacant, adjoining, or nearby parcels is prohibited.
4166
4167 C. Post disaster debris staging areas. Post disaster debris staging areas are allowed in all zoning
4168 districts on sites designated by the City for such activity.
4169
4170 D. Post disaster construction staging. Staging areas for post disaster reconstruction efforts are allowed
4171 in all non-residential zoning districts.
4172

4173 **Section. 5.9.7. Temporary sales office.**
4174

- 4175 A. Temporary sales offices are mobile structures used only for the sale or lease of units within that
4176 development. For the purpose of this section, units to be located within the development shall
4177 mean residential, non-residential, or mixed use habitable space or leasable floor area, whether
4178 occupying all of a building or individual area within a building including residential units,
4179 residential or non-residential units, individual units in a multi-unit non-residential development,
4180 or freestanding residential or non-residential structures.
4181
4182 B. Requirements for a temporary sales office. The following requirements must be met prior to the
4183 approval of a temporary sales office:
4184
4185 1. Connection to sewer and water is required. If sanitary sewer and potable water are unavailable
4186 to the site, bottled water and portable sanitary facilities may be utilized until such time as
4187 sanitary sewer and potable water are available. A temporary sales office shall be connected to
4188 such facilities within 90 days of availability or within 90 days of the permitted temporary sales
4189 office, whichever is less.
4190
4191 2. The temporary sales office shall meet the setbacks of the zoning district in which it is located.
4192
4193 3. A temporary sales office shall not be used as a place of habitation or abode by any person(s),
4194 and shall not be used or occupied for business, office, or other purpose(s) at any time except
4195 between the hours of 7:00 a.m. and 9:00 p.m.
4196

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- 4197 4. A minimum of three paved off-street parking spaces shall be provided for the temporary sales
4198 office.
4199
- 4200 5. The entrance to the site on which the temporary sales office is located shall consist of a city
4201 approved driveway or construction entrance. Any impervious area added for the temporary
4202 sales office shall be subject to review and approval by the city.
4203
- 4204 6. The base of any temporary sales office shall be fully obscured by landscaping and skirting.
4205 Shrubs must be planted on 30-inch centers and have a minimum planted height of two feet.
4206 The type of irrigation, if applicable, must also be provided on the plan. Erosion shall be
4207 minimized and prevented to the extent practicable around any disturbed area.
4208
- 4209 7. The maximum duration of the permit shall not exceed one year. The Director may extend
4210 permits for up to six months each, based upon factors that include:
4211
- 4212 a. Size of the project.
4213
- 4214 b. Number of lots or units in the development remaining to be sold or leased.
4215
- 4216 c. Effect that the extension would have on the surrounding properties.
4217
- 4218 d. Developer's need for an extension and efforts, if any, the developer has put forward
4219 toward completion of the development (e.g., effort to complete construction in a timely
4220 manner, delays beyond the reasonable control of the developer, etc.).
4221
- 4222 8. A temporary sales office shall be removed no later than the date the development is completed
4223 or within 30 days after notice by the city that the application for development has been denied,
4224 whichever is applicable.
4225
- 4226 C. Permit application and submittal requirements. A permit shall be required for a temporary sales
4227 office. In order to obtain a permit for the use of a structure for a temporary sales office, the
4228 applicant shall submit the following to the Department of Community Development:
4229
- 4230 1. A scaled drawing of the site, identifying the location of the temporary sales office with
4231 dimensions. Construction plans shall also be submitted.
4232
- 4233 2. The names of the property owner and the operator of the temporary sales officer. In the
4234 event the operator is different from the property owner, written and notarized consent from
4235 the property owner must be submitted. Such written consent shall be revocable. In the event
4236 such consent is revoked, the temporary sales office shall be removed within 30 days.
4237
- 4238 3. The length of time the temporary mobile sales office is proposed for the site.
4239
- 4240 4. The description of potable water and sanitary facilities that will be available for the
4241 temporary office.
4242

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

Section. 5.9.8. Temporary Storage Containers.

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

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 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

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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 business structures. When disasters result in significant destruction rendering homes and businesses uninhabitable, temporary housing and temporary business structures will provide residents and businesses with the ability to quickly resume normal activities during the restoration of their permanent structures.
- B. Definitions. Terms used in this subsection shall have the meanings as defined in Article 11, Definitions, unless the context clearly indicates or requires a different meaning.
- C. Declaration of habitable structure emergency. Following a disaster, the city shall evaluate the effect of the disaster on the public health, safety, and welfare. If the City Council finds that the disaster has negatively affected residential housing or business structures in the city by a significant degree, the City Council may, by a majority vote, declare the existence of a habitable structure emergency. Upon the declaration of a habitable structure emergency by vote of the City Council, the provisions of this subsection shall become effective. The habitable structure emergency shall identify the disaster which created the emergency situation, and may be declared for either a specified period of time or an indefinite period of time. If the emergency is for an indefinite period of time, the emergency shall continue until City Council, by a majority vote, terminates the habitable structure emergency.
- D. Habitable structure emergencies. During a habitable structure emergency, the city will allow, in accordance with the provisions set forth herein, the use of temporary structures. Temporary residential structures and temporary business structures must be approved by the city with a temporary placement permit. Application and issuance criteria for a temporary placement permit are as set forth below.
- E. Temporary business structures may be used for business owners to provide a means for a business to remain open during the time the permanent business structure is being repaired or replaced. Temporary business structures may be used to provide temporary facilities for governmental uses, critical public facilities, charitable, religious, or educational institutions that have been rendered uninhabitable. The regulations for temporary business structures shall apply to temporary business structures used for governmental uses, critical public facilities, charitable, religious, or educational institutions. For these institutions, the habitable structure regulations shall apply; however, the

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Building Official may waive any regulations when strict enforcement may preclude them from carrying out their normal or emergency functions. Critical facilities shall be limited to the following:

1. Federal, state, regional, or local government facilities;
2. State, county, or local emergency operations centers;
3. Police, fire, and emergency medical facilities;
4. Radio and television stations;
5. Public, semi-public, and privately-owned utilities;
6. Hospitals, emergency medical care facilities, infusion centers, dialysis centers, physician's offices; and
7. Nursing homes and assisted living facilities.

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

1. The existing permanent habitable structure has been determined to be uninhabitable as the result of a disaster by inspection of the city Building Official;
2. The property owner or occupant of a damaged structure desires to locate in a temporary residential or business structure; and
3. A habitable structure emergency must be in effect at the time of application.

G. Applications for temporary placement permits.

1. Application forms and required fees.
2. The following permits are required prior to application for a TPP:
 - a. City permits for hook-up to electric, potable water, and wastewater utilities; and
 - b. A State Department of Health or State Department of Environmental Protection permit authorizing the connection of the temporary residence to an onsite or small domestic wastewater treatment system.

H. Time limits. Temporary structures may be located for a period not to exceed 30 days. At the end of that 30-day period, if no application has been filed, the temporary habitable structure must

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be immediately removed from the site. If an application has been filed within the 30-day time period, the temporary habitable structure may remain in place until the TPP is either approved or denied. Once approved, the temporary habitable structure may remain in accordance with the TPP. If denied, the temporary structure shall be removed within five days from the date of denial.

I. Terms of use of temporary habitable structures. Applicants for a temporary habitable structure shall be subject to the following:

1. Except as otherwise provided herein, temporary structures shall not be occupied until such time as a valid TPP has been issued and is in effect for the site.
2. Connection to sanitary sewer and potable water, or onsite water and wastewater facilities, and an external electrical system are required within 20 days of issuance of the TPP. Inspections for such connections shall be called into the city within two days of completion of each connection. Electrical and plumbing connections must be done by electricians or plumbers licensed to do business in the City of Cape Coral. If there is no electricity to the site due to a power outage, a generator may be used. Upon restoration of electricity to the property, connection to the local power grid must be made within 24 hours of power restoration.
3. An application for a building permit is required within three months from the date of issuance of the TPP for temporary residential structures or within six months for temporary business structures. Failure to apply for a building permit within the required time shall deem the TPP revoked pursuant.
4. If a building permit application has not been submitted within the required time-frames, an applicant may petition City Council for relief from the time restrictions of this subsection. City Council shall determine whether the failure to apply for a building permit is due to good cause shown by the applicant. If City Council denies the request for relief, the temporary structure shall be removed from the site within ten days from the date of denial, or at the end of the initial three-month period for temporary residential structures, or at the end of the initial six-month period for temporary business structures, whichever is later.
5. Temporary habitable structures with a TPP may be used until the earlier of: 1) completion of the rehabilitation or reconstruction of the damaged structure; or 2) until such time as the owner or occupants of the damaged structure are established in a permanent structure at another location.
6. Occupants must comply with all mandatory hurricane evacuation requirements.

J. Temporary structures. Temporary habitable structures must comply with the following:

1. Temporary residential structures may consist of a recreational vehicle or a travel trailer. Temporary business structures may consist of recreational vehicles, travel trailers, or mobile offices. At the discretion of the Building Official, additional types of temporary business

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structures may be allowed, consistent with applicable federal, state, and local regulations and the provisions of this ordinance.

2. Must meet all applicable National Fire Protection Association and Life Safety codes and regulations as well as all applicable state and local requirements for tie-downs.

3. Shall contain plumbing (both water and wastewater) and electrical connections and shall be capable of being hooked up or attached to external plumbing and electrical systems. Temporary residential structures shall contain a kitchen capable of being hooked up or attached to external plumbing and electrical systems. Requirements for temporary business structures shall be based upon the proposed use.

4. Shall meet the Florida Accessibility Code for building construction amenities.

L. Placement of temporary habitable structures. The following site considerations are required for placement of a temporary habitable structure:

1. Temporary residential structures may be anywhere on the site of the existing permanent residence; however, no a temporary residence is allowed within road rights-of-way or drainage or utility easements. The city may waive any development regulations regarding lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate temporary residential structures.

2. Where more than one existing permanent residence has been rendered uninhabitable, the Building Official may allow up to the number of damaged permanent residences or residential units on the site. Such determination shall be based upon consideration of life, health, and safety requirements.

3. For temporary business structures:

a. Temporary business structures may be anywhere on the parcel of the existing business; however, temporary business structures are not allowed within road rights-of-way or drainage or utility easements. The city may waive any development regulations regarding lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate temporary business structures.

b. Temporary business structures may be on property adjacent to the permanent business structure if a notarized, written consent from the property owner is submitted at the time of application for a TPP.

c. The establishment of an emergency response team center on a parcel containing a business does not necessarily preclude the placement of one or more temporary business structures on the same parcel.

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- d. Parking for a temporary business structure shall be provided based upon the square footage of the temporary business structure, including handicapped parking. However, a minimum of two handicapped parking spaces must be provided.
- e. The entrance to the site shall have a city approved driveway or construction entrance. Any impervious area added for the temporary business structure shall be subject to review and approval by the city.
- f. Additional conditions or restrictions may be placed on a temporary business structure as a condition of issuance in areas including, but not limited to, the following:
- i. Hours of operation;
 - ii. Traffic control and access;
 - iii. Lighting; and
 - iv. Noise control.
- M. Issuance and revocation. The Building Official may revoke a TPP upon finding that any of the following has occurred:
- 1. Failure to connect to water, sewer, and electrical within 20 days of the receipt of the TPP.
 - 2. If an application for a building permit has not been submitted within required time from the date of receipt of the TPP, or relocation has not occurred before the time of expiration of the TPP, or, if a building permit later expires.
 - 3. If, upon inspection by the Building Official, a temporary residence is not in compliance with the requirements of this subsection.
 - 4. Failure to evacuate temporary residence during mandatory evacuation orders.
 - 5. Upon revocation of a TPP, the temporary residence must be vacated and the temporary residence removed within five days of revocation. Failure to vacate or remove the temporary residence constitutes a violation subject to the penalty imposed herein.
- N. 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.

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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:
 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.

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- 4554
4555 B. An applicant may apply for a permit to sponsor a special event in the city by submitting the following
4556 documents to the Department of Parks and Recreation:
4557
- 4558 1. A completed, signed, and notarized application shall be submitted no less than 60 days prior to
4559 the opening of the event. Exceptions to the 60-day requirement may be approved by the Director
4560 of Parks and Recreation, based upon the size, duration, and nature of the event. The city reserves
4561 the right to verify the applicant's previous history of sponsoring special events with other
4562 jurisdictions.
4563
- 4564 2. A non-refundable application and processing fee of \$40.
4565
- 4566 3. A \$250 refundable clean-up deposit in the form of either cash or certified check payable to the
4567 City of Cape Coral. The property shall be cleaned within 48 hours of the close of the event and
4568 returned to substantially the same condition as just prior to the start of the event, or better. The
4569 clean-up deposit will be refunded to applicant upon satisfactory inspection of the property, by
4570 the city, after the event closes. If, within 48 hours after the close of the event, the property is not
4571 returned to substantially the same condition as prior to the start of the event, or better, the city,
4572 in its sole discretion, may utilize the clean-up deposit to do so and refund the remainder, if any,
4573 to the applicant.
4574
- 4575 C. A tent may be erected for a special event for a maximum of five days. Any tent over 900 square feet
4576 will require a fire inspection.
4577
- 4578 D. Insurance requirements.
4579
- 4580 1. Certificates of insurance for all properties used for the event must be submitted to the Parks and
4581 Recreation Department for approval by the City Risk Manager no less than 21 days prior to the
4582 event.
4583
- 4584 2. Applicants and vendors shall have commercial or general liability insurance, including coverage
4585 for independent contractors, premises and operations, contractual liability, products and
4586 completed operations, personal injury, and property damage. Insurance coverage shall be no less
4587 than \$1,000,000 combined single limit for bodily injury and property damage and no less than
4588 \$1,000,000 for liquor liability, if applicable.
4589
- 4590 3. Vendors shall also have motor vehicle liability insurance for any motor vehicle of no less than
4591 \$1,000,000 and workers' compensation coverage, as required by statute.
4592
- 4593 4. The City of Cape Coral shall be named as additional insured. Certificates of insurance shall show
4594 the City of Cape Coral as the certificate holder.
4595
- 4596 E. In determining whether a permit shall be issued, the Director of Parks and Recreation, shall consider
4597 certain criteria including:
4598
- 4599 1. The size, duration, and nature of the event;

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- 4600
- 4601 2. Previous history, if any, of organizing events within Lee County and whether said events created
- 4602 hazards or safety situations;
- 4603
- 4604 3. Other events previously scheduled during the same time period within the city;
- 4605
- 4606 4. If the applicant has been adjudicated guilty of violating any provision of this Section, said
- 4607 adjudication may constitute grounds for denial of future special events permits by the city; and
- 4608
- 4609 5. The Director of Parks and Recreation, may, in his or her sole discretion, deny the applicant a
- 4610 permit for the special event within the City of Cape Coral.
- 4611
- 4612 F. Special events shall be held in accordance with the following:
- 4613
- 4614 1. All applicable city ordinances and building, fire, and electrical codes shall be complied with.
- 4615
- 4616 2. Most events shall require off-duty City of Cape Coral police officers to be hired for the duration of
- 4617 any event to include one hour before opening and one hour after closing. The Police Chief, shall
- 4618 determine the number of officers required, if any, based upon the size and nature of the event
- 4619 and past experience with similar events. The cost for the off-duty detail shall be set using the
- 4620 present rate charged by the Police Department which shall be paid by the applicant prior to the
- 4621 issuance of the permit. All applicants must comply with any rules or regulations imposed by the
- 4622 Police Chief, which are consistent with this Section.
- 4623
- 4624 3. Most events shall require off-duty City of Cape Coral firefighters or paramedics, to be hired for
- 4625 the duration of any event to include one hour before opening and one hour after closing. The Fire
- 4626 Chief, shall determine the number of firefighters or paramedics required, if any, based upon the
- 4627 size and nature of the event and past experience with similar events. The cost for the off-duty
- 4628 detail shall be set using the present rate charged by the Fire Department which shall be paid by
- 4629 the applicant prior to the issuance of the permit. All applicants must comply with any rules or
- 4630 regulations imposed by the Fire Chief, which are consistent with this Section. In the event the Fire
- 4631 Chief determines that special equipment such as all-terrain vehicles, trailers, fireboats, or fire and
- 4632 rescue assets, and appropriate personnel for the special equipment are necessary, the city
- 4633 reserves the right to request reimbursement for all or part of the discretionary cost from the
- 4634 applicant.
- 4635
- 4636 4. No open flame or other device emitting flames or fire shall be used in any tent or air supported
- 4637 structure while open to the public.
- 4638
- 4639 5. All equipment including, but not limited to, tents, stages, amusement rides, utility areas, ingress
- 4640 and egress locations, and cooking areas shall be inspected and approved by city fire inspectors or
- 4641 state officials, if applicable, prior to the opening of the event. If applicable, inspection certificates
- 4642 and annual permits, as required by the State of Florida, shall be submitted to the city prior to the
- 4643 opening of the event. All equipment and amusement rides, other than those which are patron-
- 4644 operated or controlled, shall only be operated by persons over 18 years of age who are employed
- 4645 by the applicant and who are thoroughly familiar with the operation of said equipment and

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amusement rides. The operator of such equipment and amusement rides shall be in the immediate vicinity of the operating controls at all times during the operation of the equipment and amusement rides and no unauthorized person shall be permitted to handle the controls during said operation.

6. Special event signs shall be permitted in accordance with the Land Development Code, Article 7.
 7. 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.
 - a. 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. The Director of Parks and Recreation shall post designated areas when such posting is appropriate.
 - b. If sound amplifying equipment is present, it shall be in accordance with a permit issued per Section 5.9.3 Outdoor Entertainment Event. The Director of Parks and Recreation shall establish one or more designated areas on public property within the area of the special event where such amplified sound may occur. If sound amplifying equipment is present on private property at the special event, the Director of Parks and Recreation may establish one or more designated areas on public property within the area of the special event where other amplified sound may occur. If amplified sound is not present on public or private property during 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.
 - c. 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.
 8. 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.
 9. 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.
 10. No person shall unreasonably hamper, obstruct, impede, or interfere with any person, entity, group, or organization hosting a permitted special event.
- G. Order to cease operation. If the Director of the City of Cape Coral 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 the special event until satisfactory corrective action has been taken.

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- H. 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.
- I. 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 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.
- J. 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.

Section 5.9.11. Temporary Off-Site Vehicle Sales.

The display of vehicles, including, but not limited to, automobiles, trucks, vans, recreational vehicles such as camping trailers, motorcycles and recreational terrain vehicles, and water craft such as boats, jet skis and wave runners, displayed for the purpose of sale, lease, trade or rental, shall be permitted at an off-site location (that is, on an improved property that is not the approved location of the business).

A. Temporary Off-Site Vehicle Sales shall adhere to the following requirements:

1. The commercial establishment seeking the temporary sale permit must have the written permission of the owner, or an authorized representative of the owner, of the property on which the temporary sale will be conducted. The written permission shall state that, as a condition of the city's issuance of a permit for the temporary sale, the property owner agrees to be responsible for any damage to the city's right-of-way or utility systems as a result of the sale and that any such damage shall be repaired at the expense of the property owner. In addition, such written permission shall also state that, in consideration of the city's issuance of the permit, the property owner shall hold the city harmless from any claim, loss, damage, or cause of action that arises because of the temporary sale or the issuance of the permit therefore, including any loss or damage to the owner's property or improvements thereon. Such written permission shall have a notarized signature and shall be filed with the Department of Community Development.
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.

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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 the Department of Community Development. Items authorized pursuant to subparagraphs b. and c. shall also be made by the Fire Department.
- B. Any other outdoor display on improved property must be approved by City Council and is subject to review annually at the discretion of Council, except that the City Manager may approve requests for temporary displays of no longer than five days duration no more than two times per calendar year for any location or applicant when he or she is satisfied that the request would be in keeping with the harmony of the zoning district and that it would violate none of the ordinances of the City of Cape Coral.

Section. 5.9.12. Tents for other than Special Events.

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- A. A tent may be permitted to be erected for a for a maximum of five days for an event.
- B. A tent permit is required, and the application must include the following information.
1. A site plan showing tent location(s) with the dimensions from the property lines, existing structures, location of equipment, all streets, entrances, exits, parking areas, and restroom facilities;
 2. Notarized agent authorization from the property owner;
 3. Proof of current liability insurance; and
 4. If required, proof of sanitary facilities (port-o-let) or a letter from a neighboring business stating that restroom facilities are available for their use and the hours of operation are compatible.
- C. Review Criteria. All tent permits will be reviewed for zoning compliance, compliance with applicable building and fire code requirements, and a City Business Tax Receipt.

Section. 5.9.13. Other events not named.

A person desiring to hold any temporary event, not listed herein, shall contact the Community Development department regarding the necessity of a permit and any additional permissions that may be required.

Section 5.9.14 Temporary seawall staging areas.

A. Temporary seawall construction staging in residential zoning districts. Temporary off-site staging areas for seawall construction are allowed in residential zoning districts subject to the following requirements:

1. Requirements for temporary seawall construction staging areas:

a. Time limits. Temporary seawall staging areas may be permitted for up two years;

b. Allowable storage of materials. Only materials used in the repair or reconstruction of seawalls may be stored on the permitted staging site. Materials shall not be located in the side yard setbacks of the staging site. All rubble or debris shall be stored in dumpsters;

c. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;

d. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through Saturday only. No work shall occur on New Years Day, July 4th, Thanksgiving, or Christmas Day;

e. No structures other than a permitted construction trailer may be placed on the property;

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f. No outdoor lighting is permitted for any staging area in a residential zoning district;

g. The permittee shall be responsible for restoration of the staging area upon completion of the work and restoration of any damage to any City facilities, such as roadside swales, pipes, catch basins, pavement, signs, striping, etc.;

h. Barges may not be docked or moored in any manner that obstructs navigation or use of docks or boats; and

i. Prohibited on-site activities. The following activities are prohibited:

 i. Jackhammering or other methods of breaking up concrete or other demolition debris from damaged seawalls;

 ii. Grinding or saw cutting of concrete or rebar debris; and

 iii. Any dust creating operations.

2. Permit application and submittal requirements. A permit shall be required for a temporary seawall staging area. The applicant shall submit the following information to the Department of Community Development:

a. A scaled drawing of the site showing the location of all material to be stored or staged for construction;

b. The name and notarized written consent of the property owner(s). Such written authorization may be revoked at any time;

c. The length of time the site is to be used for staging, including post-staging clean up; and

d. The name, address, and contact information for the person(s) responsible for the staging area activities.

3. Notice to Neighbors. Mailed notice to surrounding property owners is required for any individual seawall staging area expected to be used for a period exceeding nine months. The notice shall be mailed to all property owners of record in a 500' radius from the site. The applicant shall be responsible for the cost of notice.

4. Extensions and expiration of seawall staging areas. Seawall staging area permits shall expire two-years from issuance unless an extension is granted. Permitted staging areas may apply for a (1) one-year extension.

5. Inspection by City officials. In order to ensure compliance with all applicable laws and regulations, temporary seawall construction staging areas shall be held open for reasonable inspection, without court order, by employees or agents of the City of Cape Coral or any other duly authorized governmental agency.

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6. 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 fines.

Chapter 10. - SPECIFIC USE REGULATIONS (P* Uses in Table 4.4)

Section. 5.10.1. Purpose and applicability.

- A. The uses listed in this chapter are deemed to be appropriate uses when developed and operated in accordance with the requirements listed within each Section. Approval may be granted administratively as long as the requirements are met and maintained. The applicant shall provide all documents necessary to prove that the requirements are met prior to receiving approval to operate and on an ongoing basis as required for the specific use.
- B. The landscape standards of this chapter are in addition to any landscape standards established in Chapter 5, Landscaping, of this Article.

Section. 5.10.2. Craft breweries, distilleries, and wineries.

- A. Requirements. All craft breweries, distilleries, or wineries which produces alcoholic beverages for consumption on premise or provide retail sales, shall comply with the following requirements:
 - 1. The business owner shall submit semi-annual production records to the Department of Community Development for all alcohol and nonalcohol products produced within the establishment.
 - 2. All mechanical equipment used in the alcohol production process shall be behind a wall or fence that separates the equipment from any property line abutting a public street other than an alley when viewed along a line perpendicular or radial to such property line. The wall or fence shall be opaque and have a minimum height of six feet.
 - 3. Loading and unloading areas shall be provided to the side or rear of the building. Loading and unloading areas shall not be along the front of the building.
 - 4. Spent or used grain or similar wastes may be placed outdoors for a period not to exceed 24 hours. The temporary stockpiling for spent or used grain shall be:
 - a. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the stockpiled spent grains on the property and the distance of the stockpiled grains from the property lines and the building containing the artisan brewery, distillery, or winery;
 - b. Located only along the side or rear of the building; and
 - c. Fully enclosed in containers that are behind an opaque wall or fence. The wall or fence shall have a minimum height of six feet. Cargo containers and tractor trailers shall not be utilized for the temporary stockpiling of spent or used grains even if the cargo containers and tractor trailers are behind an opaque wall or fence.

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B. Waiver of requirements.

1. Permitted and Conditional Uses.

To encourage the repurposing of existing buildings in the NC or SC districts, any craft brewery, distillery, or winery that is approved as a permitted use, the provisions of this Section may be waived in part or in their entirety by the Director for the purpose of spurring economic development based on the criteria contained in Subsection 2.

2. Criteria. In determining whether to waive one or more of these standards the Community Development Director shall utilize the following criteria:

- a. The visibility of the mechanical equipment and loading areas from any public street(s).
- b. The proximity and visibility of the mechanical equipment and loading areas from existing residential development.
- c. The existence of site conditions 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.
- d. The effect other regulations would have on the proposed development or other locational factors that may make compliance with this Section impossible or impracticable.
- e. The annual production of alcohol anticipated to be produced by the establishment.
- f. The size and extent of the equipment requiring screening.

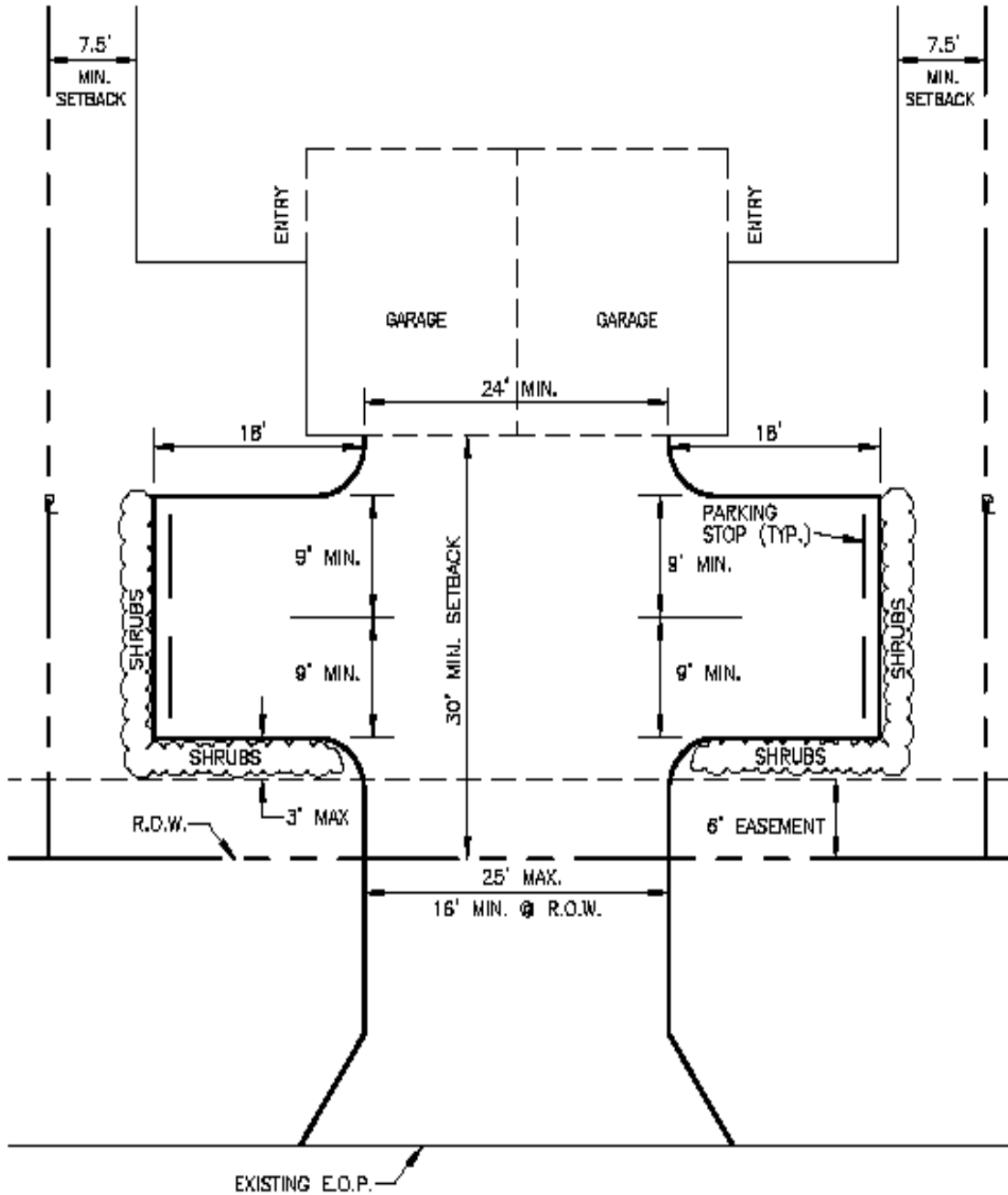
Section. 5.10.3. Duplexes and Single-family Semi-detached dwellings.

Duplexes and Single-family Semi-detached dwellings must meet the following conditions:

- A. All duplexes or single-family semi-detached dwellings on parcels less than 20,000 square feet in area must be served by public water and sewer.
- B. All duplex and single-family semi-detached dwelling parking areas and driveways in the RML zoning district shall conform to one of the following Duplex Driveway and Parking Design Standards:

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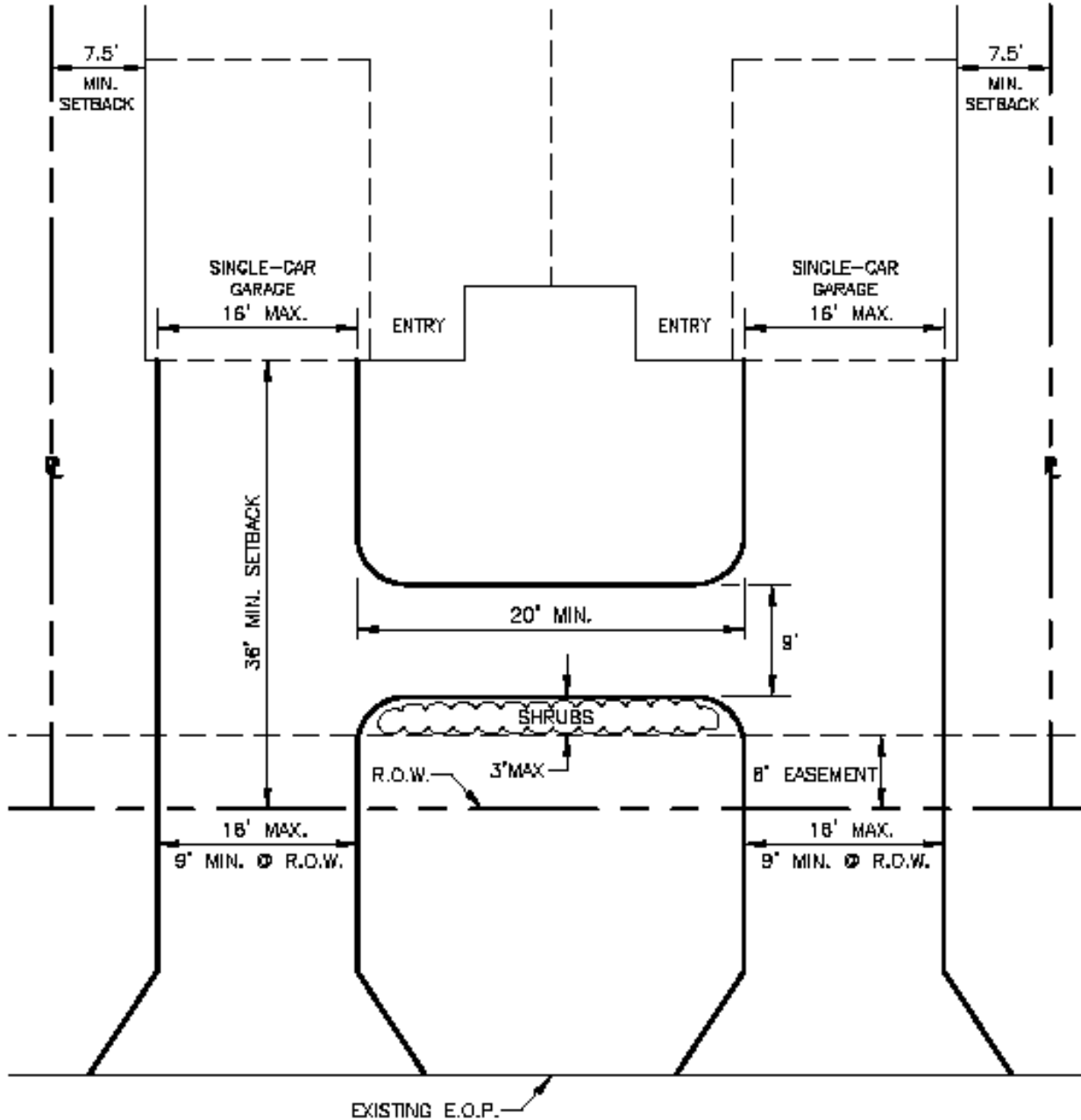
DUPLEX DRIVEWAY & PARKING STANDARD



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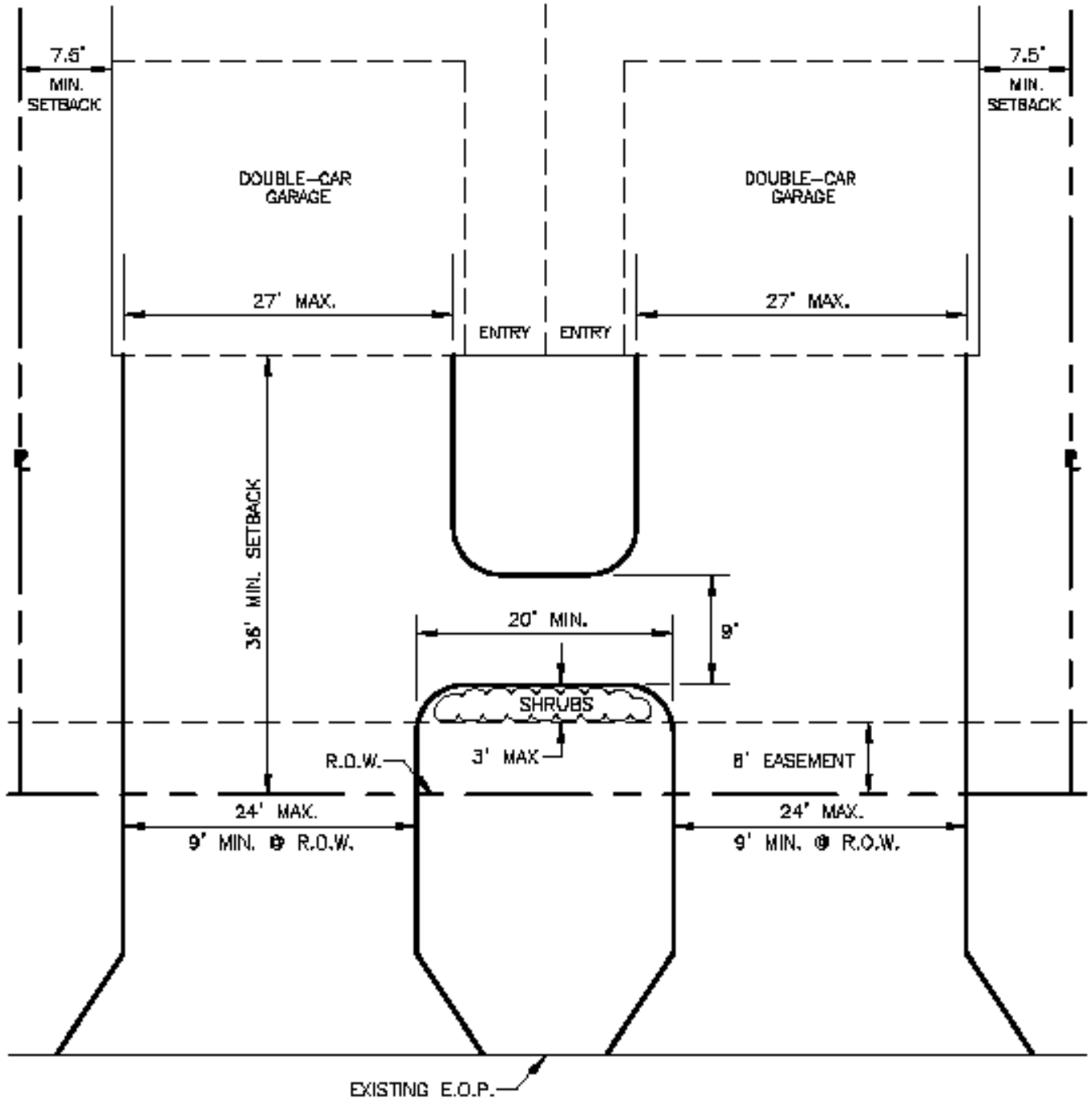
DUPLEX DRIVEWAY & PARKING STANDARD
(SINGLE-CAR GARAGE)



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DUPLEX DRIVEWAY & PARKING STANDARD
(DOUBLE-CAR GARAGE)



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- C. Duplex structures in the RML zoning district may not be sold, subdivided, or conveyed by deed into individually owned parcels or dwelling units.
- 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.
- E. 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
 7. Projections and decorative elements, such as trellises, for visual interest.
- F. Duplexes that have at least one dwelling unit entry on the side of a duplex shall not be required to provide a turn-around or a bump-out driveway on a 2-lane street.
- G. As an alternative to the design requirements of subsection B, above, a duplex or single-family semi-detached dwelling unit in the RML zoning district may provide a two-car garage for each dwelling unit.

Section. 5.10.4. Home occupations.

Home occupations shall only be allowed as an accessory use to a residential use, provided the following conditions are met:

- A. All home occupations 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 person other than members of the immediate family may be employed for a salary, commission or upon any other remunerative basis.
- C. 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.
- D. 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.

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E. No home occupation shall occupy an area greater than 10% of the living area of the structure.

F. The home occupation shall not generate pedestrian or vehicular traffic beyond that which is reasonable to the district in which it is located and it shall not involve the use of commercial vehicles for delivery of materials to or from the residence.

G. 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.

H. No business operated under a fictitious name shall be issued a license to operate under this Section.

Section. 5.10.5. RV resorts

A. General provisions. Within a recreational vehicle park, recreational vehicles that meet the requirements herein, whether self-propelled or pulled by a towing vehicle, and camping cabins, as regulated herein, may be used for temporary lodging. Facilities to accommodate administration, maintenance, recreation, dining, and personal care may be included within a recreational vehicle park. Recreational vehicle parks shall be deemed to be nonresidential uses, and any transient guest site occupied by a registered guest of a recreational vehicle park shall not be deemed to be a "residence", "dwelling," or "residential premises" within the meaning of other provisions of the City of Cape Coral regulations. The management of all transient guest sites and camping cabins must be performed by a single on-site management company or entity, regardless of whether the transient guest sites, camping cabins, or both are owned by more than one person or entity.

B. Lodging unit characteristics. Lodging shall only be allowed within recreational vehicles and camping cabins that have all of the following characteristics:

1. Recreational vehicles:

- a. Shall be no more than eight and one-half feet in body width, exclusive of safety devices when slide outs are retracted;
- b. Shall have water and wastewater systems designed for continuous connection to water and wastewater service facilities while parked at a transient guest site; and
- c. Shall not be constructed with collapsible partial sidewalls that fold for towing in such a way as to be unusable for occupancy.

2. Camping cabins shall comply with all of the following criteria:

- a. Cabins shall be constructed in compliance with the Florida Building Code;

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- b. The square footage of interior space shall be a minimum of 200 square feet and a maximum of 600 square feet;
- c. Cabins shall be equipped with electric service and a full bathroom;
- d. Cabins are exempt from non-residential design standards, however when there is more than one cabin in a development, the color scheme, exterior materials on walls, exterior roof finishing, and roof type must be consistent among all cabins;
- e. Corrugated metal is prohibited for exterior walls; and
- f. Roofs shall consist of pitched roofs, including but not limited to, gable, hip, or mansard roofs; however, mansard roofs with flat decks and shed style roofs are prohibited.

C. Location. Recreational vehicle parks are permitted only on property with a Mixed-Use future land use designation. No new recreational vehicle park shall be developed and no existing recreational vehicle park shall be expanded within a coastal high hazard area, as depicted in the Comprehensive Plan.

D. Minimum interior road standards. All interior roads shall be privately owned and maintained, and shall be constructed in accordance with the structural requirements within the City of Cape Coral Engineering Design standards.

E. Overall recreational vehicle park area and density. The following requirements shall apply to the recreational vehicle park net area:

1. Minimum recreational vehicle park net area: 25 acres;
2. Maximum net density: 10 transient guest sites per acre, based on net area; and
3. Minimum net density: For recreational vehicle parks with a net area of less than 50 acres, the minimum quantity of transient guest sites shall be 50; for recreational vehicle parks with a net area of 50 or more acres, there shall be no less than one transient guest site per acre, rounded to the nearest whole number.

For purposes of this section, the net area shall mean the area of the recreational vehicle park minus extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If an extant wetland or water area is expanded or contracted, the net area shall be based on the resultant wetland and water areas.

F. Transient guest sites. Transient guest sites can be designed with either: 1) a pad for parking one recreational vehicle; 2) one camping cabin; or 3) a pad for parking one recreational vehicle and one camping cabin. The following standards shall apply to transient guest sites within a recreational vehicle park:

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1. Each transient guest site shall be clearly defined by a permanent marker, constructed of a durable material such as masonry or metal, placed at all corners;
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;

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- 5150 c. Maximum site area: 1 acre;
5151
5152 d. Minimum site width: 35 feet, measured at right angles to and between the designated side
5153 boundary lines; and
5154
5155 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
5156 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
5157 asphalt as a paving material for vehicle pads and driveways is prohibited.
5158
- 5159 10. Each transient guest site developed with a camping cabin shall have the following standards:
5160
5161 a. Maximum number of camping cabins: 1;
5162
5163 b. Minimum site: 2,500 square feet; and
5164
5165 c. Parking space: Each site developed with a camping cabin shall include a minimum of one
5166 automobile vehicle parking space, paved with concrete or pavers, or as otherwise approved
5167 by the city, with minimum dimensions of 9 feet by 18 feet. This limitation shall not apply to
5168 transient guest sites with a pad for parking one recreational vehicle and one camping cabin.
5169 The use of asphalt as a paving material for vehicle parking spaces is prohibited.
5170
- 5171 11. Each transient guest site developed with both a pad for parking a recreational vehicle and with
5172 a camping cabin shall have the following standards:
5173
5174 a. Maximum number of units: one camping cabin and a pad for parking no more than one
5175 recreational vehicle;
5176
5177 b. Minimum site area: 5,000 square feet;
5178
5179 c. Maximum site area: 1 acre;
5180
5181 d. Minimum site width: 35 feet, measured at right angles to and between the designated side
5182 boundary lines; and
5183
5184 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
5185 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
5186 asphalt as a paving material for vehicle pads and driveways is prohibited.
5187
- 5188 12. Each transient guest site may also include accessory structures for outdoor living, including, but
5189 not limited to, an outdoor kitchen, fire pit, spa, hot tub, gazebo, shade shelter, marine
5190 improvements, and other hardscape features.
5191
- 5192 G. Utilities. Each transient guest site shall have direct connections to central potable water, central
5193 wastewater, and electric services. All water and wastewater utility infrastructure within a
5194 recreational vehicle park shall be privately owned and maintained, except as otherwise approved
5195 by the City Council. Within the recreational vehicle park, all telephone, electric, television cable

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service, or other wires of all kinds must be underground, provided, however, that appurtenances to these systems which require aboveground installation may be exempted from these requirements and primary facilities providing service to the site of the development or necessary to service areas outside the planned development project may be exempted from this requirement.

H. Lighting. All roads, walkways and parking areas shall be provided with lighting adequate to ensure the safety of vehicular and pedestrian traffic. All lighting shall be designed so that it is not directed toward neighboring properties.

I. Parking. In addition to parking spaces on transient guest sites, a minimum of one parking space per ten recreational vehicle sites within the park shall be provided for visitors.

J. Designated storage. Except for boats at a rental facility or moored at a marine improvement, boats and utility trailers (tow dollies, "toy haulers", etc.) shall be stored in a designated storage area that shall occupy no more than 5% of the gross area of the park. Such storage area shall be for the exclusive use of registered guests. only during the period the guest is a registered occupant of a transient guest site. Designated storage areas shall be enclosed by an opaque visual barrier that is a minimum of eight feet in height. The following materials, either singly or in any combination, are the only materials that may be used to form the opaque visual barrier:

1. Wood, plastic, vinyl, or metal fencing;
2. Concrete block and stucco wall;
3. Brick wall; or
4. Formed, decorative, or precast concrete.

No storage area shall be located closer than 40 feet to any exterior property line of the recreational vehicle park. No repair or maintenance other than cleaning shall be conducted within such storage area.

K. Recreation area. At least one recreation area shall be provided within the park, designed and improved to serve the recreational needs of the park users. The recreation area(s) shall be a minimum of 500 square feet per transient guest site. All recreation areas shall be accessible to all occupants of the park. If more than one recreation area is provided, no recreation area shall be less than 10,000 square feet. A minimum of 50% of the total required recreation area shall be comprised of recreation within a building, or outdoor facilities for active recreation, including, but not limited to, swimming pools, ball fields, tennis courts, or play lots with facilities. No portion of any transient guest site, perimeter buffer yard, internal road or road easement, or stormwater management area, except as provided below, shall be counted as required recreation area. Bodies of water may be counted toward required recreation area if recreational use is not otherwise prohibited on or in the body of water and if recreational amenities, including, but not limited to, a beach, boat rental or launching facilities, are provided. In no event, however, shall bodies of water comprise more than 50% of the required recreation area.

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- L. Landscaping plan. Requests for approval for a recreational vehicle park shall be accompanied by a landscaping plan that provides, at a minimum, compliance with Section 5.5.
- M. Phasing. The Director shall not issue a certificate of use for a recreational vehicle park prior to completion of construction of all of the transient guest sites, internal roads, drainage system, potable water and wastewater utilities, landscaping and buffering, and accessory structures approved for the park, unless the Hearing Examiner and Appeals (or the City Council, when applicable) approves a phasing plan that identifies size, location, sequence, and timing of the various phases of the development. If a phasing plan is approved, the Director shall not issue a certificate of use for any phase that has not been completed in its entirety.
- N. Operation generally.
1. Responsibilities of management. The owner of a recreational vehicle park shall, at all times, maintain the park and its facilities in a clean, orderly and sanitary condition. The park management shall inform all registered occupants of transient guest sites of the provisions of this section and other related ordinances and statutes, and of their responsibilities thereunder.
 2. Certificate of use required. No lodging within recreational vehicles or camping cabins shall occur prior to the issuance of a certificate of use for the recreational vehicle park.
 3. Length of occupancy. No owner of any recreational vehicle park shall allow or permit any transient guest sites in a recreational vehicle park to be rented to or occupied by any person or recreational vehicle for any period of time that would permit or allow any person or recreational vehicle to remain at such recreational vehicle park for more than 180 days in any 365-day period.
 4. Register of occupants. The owner or operator of any recreational vehicle park shall file a report with the Director showing the guest names and addresses, recreational vehicle license numbers, dates of arrival and departure, and the transient guest site occupied by each guest at the recreational vehicle park during the preceding calendar quarter. Such reports shall be filed not later than April 15th, July 15th, October 15th and January 15th for the immediately preceding calendar quarter.
- O. Inspections authorized. The Director is hereby authorized to make periodic inspections of the recreational vehicle park and transient guest sites for the purpose of determining satisfactory compliance with the regulations of this section pertaining to the health, safety and welfare of the community.
- P. Incidental facilities and amenities. Various facilities and amenities incidental to a recreational vehicle park are permissible, however, all facilities and amenities must meet all requirements stated herein together with any additional conditions of approval.
1. The following facilities may be approved as incidental to a recreational vehicle park:
 - a. Administrative offices;

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- 5288
- 5289 b. Caretaker or watchperson residence (no more than one);
- 5290
- 5291 c. Car wash (Recreational vehicle washing facilities only);
- 5292
- 5293 d. Clubhouses;
- 5294
- 5295 e. Gatehouses;
- 5296
- 5297 f. Grounds maintenance facilities;
- 5298
- 5299 g. Laundry facilities:
- 5300
- 5301 h. Marine improvements;
- 5302
- 5303 i. Restrooms and community showers; and
- 5304
- 5305 j. Sanitary dump stations.
- 5306
- 5307 2. The following amenities are permitted as amenities incidental to the recreational vehicle park
- 5308 even though they are typically land use classifications identified as individual "uses" within
- 5309 other zoning districts.
- 5310
- 5311 a. Banquet halls;
- 5312
- 5313 b. Bars;
- 5314
- 5315 c. Commercial Recreation – indoor and outdoor;
- 5316
- 5317 d. Cultural and civic facilities;
- 5318
- 5319 e. Personal services;
- 5320
- 5321 f. Professional Offices;
- 5322
- 5323 g. Restaurant, no drive-thru; and
- 5324
- 5325 h. Retail.
- 5326
- 5327 3. For recreational vehicle parks with no frontage on any type of arterial or collector street, food
- 5328 stores, personal services, and restaurants shall be limited as follows:
- 5329
- 5330 a. Vehicular ingress/egress for parking lots supporting an amenity shall not be directly
- 5331 accessible from any public street, but shall only be accessible from a road within the park;
- 5332
- 5333 b. No signs shall be visible from outside the recreational vehicle park; and

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- 5334
- 5335 c. The cumulative gross leasable floor area occupied by food stores, personal services, and
- 5336 restaurants shall not exceed 3% of the net area of the recreational vehicle park. For
- 5337 purposes of this section, the net area shall mean the area of the recreational vehicle park
- 5338 minus extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If
- 5339 an extant wetland or water area is expanded or contracted, the net area shall be based on
- 5340 the resultant wetland and water areas. Food stores shall not occupy more than 25,000
- 5341 square feet of contiguous gross leasable floor area.
- 5342
- 5343 4. For recreational vehicle parks with frontage on any type of arterial or collector street, food
- 5344 stores, personal services, and restaurants shall be limited as follows:
- 5345
- 5346 a. Vehicular ingress and egress for parking lots supporting food stores, personal services, and
- 5347 restaurants may be directly accessible from a public street. Visible evidence of the
- 5348 commercial character of food stores, personal services, and restaurants may be observable
- 5349 from a street outside the park. For food stores, personal services, and restaurants that have
- 5350 vehicular ingress/egress directly accessible from a public street, or present visible evidence,
- 5351 observable from a street outside the park, of their commercial character, no certificate of
- 5352 use shall be issued until a minimum of 20% of the total transient guest sites for the entire
- 5353 recreational vehicle park have been constructed or installed; and
- 5354
- 5355 b. The cumulative gross leasable floor area of food stores, personal services, and restaurants
- 5356 shall not occupy more than 3% of the net area of the park. Not more than 25,000 square
- 5357 feet of contiguous gross leasable floor area shall be devoted to food stores.
- 5358
- 5359 5. In the event that a recreational vehicle park fails to meet the minimum required number of
- 5360 transient guest sites as a result of removal of transient guest sites or conversion to another use,
- 5361 or if the offering of lodging at transient guest sites is discontinued for one year or more, any
- 5362 activity that had previously been approved as an amenity incidental to the recreational vehicle
- 5363 park use shall lose its status as an amenity and shall be treated in the same manner as a
- 5364 nonconforming use.
- 5365
- 5366 Q. Prohibitions. The following uses, activities or improvements listed below are prohibited within a
- 5367 recreational vehicle park:
- 5368
- 5369 1. Permanent residential use is prohibited, except in an approved caretaker/watchperson
- 5370 residence.
- 5371
- 5372 2. Lodging within any structure other than an approved recreational vehicle, camping cabin,
- 5373 caretaker, or watchperson residence (e.g., tent, mobile home, garage, shed, or agricultural
- 5374 building) is prohibited within a recreational vehicle park.
- 5375
- 5376 3. The storage of a recreational vehicle, boat, or accessory trailer during any period when the
- 5377 owner or lessee of the vehicle is not a registered occupant of a transient guest site is prohibited.
- 5378 Storage of boats and accessory trailers is prohibited on individual transient guest sites or on
- 5379 internal roads.

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- 5380
- 5381 4. The parking of a recreational vehicle, automobile, or truck in an area not designated for parking
- 5382 is prohibited.
- 5383
- 5384 5. Drive-thru facilities for restaurants are prohibited.
- 5385
- 5386 6. Fuel pumps for retail sales of fuel are prohibited.
- 5387
- 5388 R. Evacuation plan. Prior to issuance of a certificate of use for a recreational vehicle park, the
- 5389 developer shall provide an emergency response plan, approved by the Fire Chief that requires the
- 5390 removal of all recreational vehicles in the event of a hurricane. At a minimum, all recreational
- 5391 vehicles and occupants shall evacuate when notified of a "Hurricane Watch" being issued for the
- 5392 city. Any amendment by the developer to an approved evacuation plan requires approval by the
- 5393 Fire Chief.
- 5394

5395 **Section. 5.10.6. Micro cottage Village Development (MCVD).**

5396

5397 Micro cottage Village Developments (MCVDs) provide a location for City residents who wish to reside on

5398 lots which are much smaller than the typical Cape Coral property. This housing type encourages efficient

5399 use of land, affordability, and energy conservation. Micro cottage housing allows for a higher density

5400 single family development than is normally allowed. This is made possible by smaller home sizes, clustered

5401 home sites, and parking and design standards. These villages shall be developed to ensure that they

5402 provide an attractive, clean option for these residents which also will not have a deleterious effect on

5403 nearby properties.

5404

- 5405 A. Minimum area and density requirements. The minimum allowable area for a MCVD shall be three
- 5406 acres and the maximum density of micro cottages shall not exceed 8.8 dwelling units per acre. The
- 5407 minimum lot size for individual lots shall be 5,000 square feet.
- 5408
- 5409 B. Buffering. Sites adjacent to single family zoning and land use shall provide a 25' buffer along each
- 5410 abutting perimeter.
- 5411
- 5412 C. Availability of infrastructure. MCVDs shall be serviced by city utilities.
- 5413
- 5414 D. Clustering. A MCVD is composed of clusters of micro cottages.
- 5415
- 5416 1. Minimum units per cluster: 4.
- 5417
- 5418 2. Maximum units per cluster: 12.
- 5419
- 5420 E. Common open space. Each cluster of micro cottages shall have common open space and provide a
- 5421 sense of openness and community for residents. Open space requirements are as follows:
- 5422
- 5423 1. Each cluster of micro cottages shall have common open space to provide a sense of openness and
- 5424 community for residents;
- 5425

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2. At least 400 square feet per micro cottage of common open space is required for each cluster.
 3. Each area of common open space shall be in one contiguous and useable piece.
 4. To be considered as part of the minimum open space requirement, an area of common open space must have a minimum dimension of 20 feet on all sides.
 5. The common open space shall be at least 3,000 square feet in area, regardless of the number of units in the cluster.
 6. Required common open space may be divided into no more than two separate areas per cluster.
 7. At least two sides of the common open area shall have micro cottages along its perimeter.
 8. Parking areas, yard setbacks, private open space, and driveways do not qualify as common open space.
- F. Community Buildings. Community buildings are permitted in MCVDs. Community buildings shall be clearly incidental in use and size to dwelling unit and shall be no more than one story.
- G. Ownership. Community buildings, parking areas and common open space shall be owned and maintained commonly by the MCVD residents, through a condominium association, a homeowners' association, or a similar mechanism, and shall not be dedicated to the City.
- H. Size. Micro cottages shall meet the following requirements:
1. The gross floor area of each micro cottage shall not exceed 1,100 square feet.
 2. At least 25% of the micro cottages in each cluster shall have gross floor area less than 1,000 square feet.
 3. Micro cottage areas that do not count toward the gross floor area or footprint calculations are:
 - a. Interior spaces with a ceiling height of six feet or less, such as in a second floor are under the slope of the roof;
 - b. Architectural projections—such as bay windows, fireplaces, or utility closets—no greater than 24 inches in depth and six feet in width;
 - c. Attached unenclosed porches;
 - d. Garages or carports;
 4. The footprint of each micro cottage shall not exceed 850 square feet.
- I. Unit Height. The maximum height of a micro cottage shall be 25 feet.

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J. Orientation of micro cottages.

1. Each dwelling unit shall be clustered around a common open space. Each unit shall have a primary entry and covered porch oriented to the common open space.
2. Lots in a MCVD can abut either a street or an alley.
3. Each unit abutting a public street (not including alleys) shall have a façade, secondary entrance, porch, bay window or other architectural enhancement oriented to the public street.

K. Micro cottage Setbacks. The minimum setbacks for all structures (including micro cottages, parking structures, and community buildings) in a MCVD are:

1. Ten feet from any public right-of-way.
2. Ten feet from any other structure.
3. Micro cottages shall be no more than 25 feet from the common open area, measured from the façade of the micro cottage to the nearest delineation of the common open area.
4. No part of any structure in the MCVD (including micro cottages, parking structures, and community buildings) shall be more than 150 feet, as measured by the shortest clear path on the ground, from fire department vehicle access.

L. Porches. Micro cottage units shall have covered front porches. The front porch shall be oriented toward the common open space. Covered porches shall have at least 60 square feet in area.

M. Garages. Garages are not required or encouraged in MCVDs.

N. Parking.

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

2. The MCVD shall include additional guest parking. A minimum of .5 guest parking spaces per dwelling unit, rounded up to the next whole number, shall be provided for each Micro cottage cluster. Guest parking may be clustered with resident parking; however, the spaces shall include signs identifying them as reserved for visitors.
3. Parking shall be separated from the common area and public streets by landscaping or architectural screening. Solid board fencing shall not be allowed as an architectural screen.

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4. Parking areas shall be accessed only by a private driveway or a public alley.

5. The design of garages and carports, including roof lines, shall be similar to and compatible with that of the dwelling units within the MCVD.

6. Parking areas shall be limited to no more than five contiguous spaces.

O. Walkways.

1. A MCVD shall have sidewalks along all public streets.

2. A system of interior walkways shall connect each micro cottage to each other and to the parking area, and to the sidewalks abutting any public streets bordering the MCVD.

3. Walkways and sidewalks shall be at least four feet in width.

Section 5.10.7. Roadside Food and Vegetable Stand.

Roadside food and vegetable stands shall be subject to the following requirements:

A. Must meet the minimum building setback requirements for the district;

B. May be in operation during daylight hours only;

C. Shall provide a designated parking area at the side or rear of the roadside food and vegetable stand sufficient to accommodate ten vehicles;

D. Shall be no larger than eight feet by 32 feet in dimensions, and must be structurally sound;

E. Must meet state, county, or local access requirements;

F. May sell fruits, plants, and vegetables only;

G. Must be built with tie downs capable of withstanding 110 mph winds; and

H. Must contain adequate toilet facilities.

Section 5.10.8. Accessory Parking Lots.

Accessory parking lots shall meet the following requirements:

A. Accessory parking lots on RML property shall be used only in connection with an existing use or structure in the C, CC, or P zoning districts.

B. The parcel shall meet minimum dimensional requirements.

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- C. The lots in the RML zoning district proposed for accessory parking shall be composed of contiguous lots in that district and owned by the commercial or professional property owner or corporation served by the parking site.
- D. A minimum of 40% of the required parking spaces for the use shall be in a Commercial or Professional zoning district. The number of required parking spaces shall be determined by Article 6.
- E. The location of accessory parking lots shall be immediately to the rear, or across any service alley, and within the extended side yard lot lines of the property that the parking is intended to serve.
- F. Driveways from accessory parking in RML areas to streets with abutting R-1 zoning shall not be permitted. However, commercial property fronting on Del Prado Boulevard or Santa Barbara Boulevard with full block depth and abutting R-1 zoning, shall be permitted one driveway access to the street with abutting R-1 zoning, in accordance with the City of Cape Coral Engineering Design Standards.
- G. The driveway shall be included in any traffic impact study for the property to determine the impact of commercial traffic on the local street and its intersections and if improvements are needed.
- H. Where necessary for safe and efficient turn movements, the city may restrict certain turn movements at the driveway accessing the street with abutting R-1 zoning.
- I. The parking area shall be classified as part of the entire non-residential building site.
- J. A landscape plan for the accessory parking areas in RML zoning shall be submitted with the application for this use. Landscape plans shall be drawn to scale, including dimensions and distances, and shall clearly delineate:
1. Existing and proposed parking spaces, or other vehicular use areas, access aisles, driveways, and ingress and egress points;
 2. The location and floor area of existing building(s) to be served;
 3. The source of water supply for plantings and materials to be installed or, if existing, to be used in accordance with the requirements hereof.
 4. All parking areas shall be landscaped in accordance with the requirements of Section 5.5.13 of this Article.
 5. There shall be a minimum of seven feet of green area in side setbacks and ten feet of green area in setbacks from street lot lines which face residential areas.
 6. There shall be a continuous undulating 18 inch to three feet high by five feet deep berm of earth extending along the property facing streets.

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- K. Lighting. If any parking areas are artificially lighted, they shall be so designed and arranged that lighting is primarily directed on-site. Such areas shall not be lighted at any time other than during the same hours that the use to which the parking is appurtenant is open for business, except for necessary security lighting.

- L. Stormwater Management. All parking areas shall incorporate appropriate stormwater quality design features to be reviewed with the SDP application.

Section. 5.10.9. Solar Arrays.

Solar Arrays shall meet the following requirements:

- A. These facilities may only be permitted in the Agriculture, Institutional, or Industrial zoning districts.
- B. Solar Arrays may only be permitted on lots over one acre in size.
- C. Must maintain appropriate security fencing and signs for protection.
- D. Solar Arrays shall be effectively screened with a fence, landscape material, or a combination thereof, where visible from an abutting property or right-of-way as determined by the Director.
1. The structures may be screened with an opaque wall or fence, up to the height allowed in that zoning district.
 2. Alternatively, the structures may be screened with shrubs that meet the following requirements:
 - a. A row of shrubs shall be planted along all sides of the facility for which screening is required.
 - b. All shrubs required for screening shall be a minimum of 32 inches in height and be in at least a seven-gallon container size at the time of planting. All shrubs shall be planted at a spacing of three feet apart as measured on center.
 - c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be maintained in good condition as long as the structures requiring screening remain.
 - d. An adequate combination of the two screening options may be permitted.

Section 5.10.10. Vehicle Sales, Light.

Vehicle Sales, Light must meet the following requirements:

- A. The minimum parcel size shall be 2 acres.
- B. Vehicle Sales, Light shall be a standalone use only.
- C. All display areas must be on a impervious surface such as asphalt or concrete.

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D. All repairs must be ancillary and must be conducted within a building.

E. Other than vehicles, no outdoor display of any other items shall be permitted.

Section 5.10.11. Wireless Communication Facilities

Wireless Communication Facilities are permitted with the following requirements:

1. Adequate documentation that co-location on an existing approved tower or on an existing building or structure, has been attempted and is not feasible. Such documentation shall include:
2. The results of a designed service study demonstrating to the satisfaction of the city that the equipment planned for a proposed communication tower cannot be accommodated on an existing or approved and un-built structure.
3. The designed service study analysis shall be based upon a search area radius of three-quarters of a mile minimum distance from the location of the intended WCF or tower, including areas outside the City of Cape Coral. At the discretion of the city, based on the city's knowledge of existing co-location opportunities, the city may allow an applicant to provide an affidavit from a professional radio frequency engineer which establishes the search area diameter for the proposed WCF or tower location and identifies all other alternatives in the area. Further information may be required by the city on the ability of the WCF or tower to be accommodated on specific sites within three-quarters of a mile of the proposed WCF or tower.
4. When co-location is determined by staff to be infeasible, the determination shall be based upon the results of the designed service study and other evidence provided by the applicant documenting one or more of the following reasons:
 - a. Structural limitation. The proposed equipment would exceed the structural capacity of the existing or approved structure, as documented by a licensed professional engineer, and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
 - b. Interference. The proposed equipment would cause interference or obstruction materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified professional and the interference or obstruction cannot be prevented at a reasonable cost.
 - c. Insufficient height. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a licensed, if applicable, professional.
 - d. Lack of space. Evidence from the applicant, verified by a licensed professional, of the lack of space on existing towers or other structures within the search radius to accommodate the proposed facility.

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- e. Other factors. Other reasons that make it unfeasible to locate the planned equipment upon an existing or approved tower or building as documented by a qualified and licensed, if applicable, professional.
- f. Technical consultants. The city shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate applications for wireless telecommunications facilities or towers and to charge reasonable fees as necessary to offset the cost of such evaluations.

Section. 5.10.12. Wireless Facility Design standards.

In addition to any other applicable requirements provided elsewhere in the Land Development Code, an application for a communication tower shall include the following:

- A. Fall zone. In the event of a catastrophic failure or collapse, towers shall be designed to collapse within an engineered fall zone lying wholly within the lot lines of the parcel containing the tower. Such fall zone shall be certified by a professional engineer, licensed in the State of Florida.
- B. Tower design for co-location. A proposed tower shall be designed to allow for future rearrangement of antennas, to provide space for antennas to be mounted at varying elevations, and to accommodate co-location.
- C. Monopoles or stealth. All towers shall be monopoles or stealth design.
- D. Illumination. A tower shall not be artificially lighted except as may be required by federal or state regulations.
- E. Surface or finish color. All towers shall be painted or have a non-contrasting finish that minimizes the visibility of the facility from public view, except where contrasting color is required by federal or state regulation. In addition, the exterior of support facilities shall be designed to be compatible with the architectural design prevailing among the structures in the surrounding developed area.
- F. Sign. The main access gate in the tower shall have affixed to it a sign not to exceed two feet by three feet in size which displays the owner's or permittee's name and an emergency telephone number.
- G. Maximum height. The maximum height of towers shall be 100 feet if the tower is designed for one service provider, 120 feet if the tower is designed to accommodate two service providers, or 140 feet if the tower is designed to accommodate three or more service providers.
- H. Landscape screening. The accessory components to the tower shall be screened from view by shrubs maintained at a height of six feet, immediately adjacent to the fence surrounding the facility and minimum of eight trees planted outside of the shrub buffer

Section. 5.10.13. Mobile food vendor.

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Mobile food vendors include hot dog carts, mobile food units, and self-sufficient mobile food units. These types of mobile food vendors are defined in Article 11, Definitions and hereafter referred to as food trucks, may be permitted on public or private property subject to the following requirements:

- A. Mobile hot dog carts, mobile food units, and self-sufficient mobile food units may only be 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. Mobile food units and self-sufficient mobile food units shall be removed from the site for at least 24 hours once each month.
- B. For purposes of these requirements, the vending area includes the space taken up by: a portable stand, vehicle, or trailer, any signs, equipment, merchandise, and any tents, tarpaulins, canopies, or awnings. Mobile vending areas shall not be in:
 1. Driveway aisles, no parking zones, landscaped area, loading areas, or fire lanes; mobile operations shall not impede the on-site circulation of motor vehicles.
 2. Food trucks shall not be set up in more than two required off- street parking spaces.
 3. Food trucks shall not operate on the public right-of-way.
- C. Food trucks may operate on vacant, unimproved property only when approved as a special event pursuant to Section 5.9.10 of this Article.
- D. The total space dedicated to the mobile operation and vending area shall not exceed an area of 600 square feet.
- E. Food trucks shall be a minimum of 20 feet from the property line of an existing residential use, except that a mobile food unit may be a minimum of 10 feet from the property line if the residential use is separated by a six-foot high masonry wall.
- F. Alcoholic beverage sales and use of sound amplification devices are prohibited.
- G. Electric service connection to an on-site approved outlet is permitted, provided that no wiring or cables are run beyond the vending area or pose any danger to the patrons.
- H. Prior to permitting a food truck to operate on a site, the vendor must submit an application for operation and the following documents:
 1. A site plan or survey indicating the following:
 - a. Location of the individual mobile food unit and associated vending area. Mobile operations shall be located so as to minimize the impacts on adjacent residential uses.
 - b. Location of improvements on the site.
 - c. Location of on-site parking areas,

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d. Rights-of-way, internal circulation, and ingress and egress.

e. A letter from the owner of the property indicating that the mobile food vendor has permission to operate from his or her property.

I. Signs associated with the operation shall be confined to the vehicle, trailer, or cart and one ground sign within 10 feet of the vending area. The ground sign shall be in compliance with the size requirements listed Article 7 and may not be within a right-of-way.

J. When multiple food trucks plan to be together for an event, a special event permit will be required if the event meets the thresholds listed in Section 5.9.10. of this Article.

K. Except as otherwise provided in this Code, it is unlawful to conduct mobile vending in any outdoor location without first obtaining a Certificate of Zoning Compliance and a Business Tax Receipt in accordance with the City Code of Ordinance, Article 3 of this Code, and the provisions of this Section.

L. The vendor must be able to produce for inspection: a copy of a letter or other written communication from the property owner or representative that authorizes the hot dog cart, mobile food unit, or self-sufficient mobile food unit and, for mobile food service operators, a copy of the applicant's mobile food dispensing license issued by the Department of Business and Professional Regulations.

M. Mobile operations at City or County parks, sports facilities, or similar venue during events shall be exempt from the requirements of this Section but must comply with all other applicable requirements in this code.

N. Vendors are prohibited from discharging fat, oil, grease, or wastewater into the sanitary sewer system. Waste shall be properly stored and disposed of at an approved disposal facility.

Mobile vendors, other than hot dog carts, mobile food units, and self-sufficient mobile food units, shall be permitted only in conjunction with a special event or a farmer's market.

Section. 5.10.14. Model homes.

Model Homes shall meet the following requirements.

A. Model homes are intended to facilitate the sale of the model design, or products similar in design to the model and is not intended to allow the full scope of real estate activities and shall be restricted primarily to the sale and marketing of the model, or products similar to the model. Model homes shall be permitted as a temporary, conditional use, not to exceed 10 years, in residential zoning districts (R1, RE, RML) or within a Planned Development.

B. A model home must meet all of the zoning and building requirements for a residence in that zoning district as well as the following:

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1. Parking. Three off-street vehicular parking spaces, including the garage, shall be provided on the model site or on an adjacent vacant property.
 2. On-site parking. A parking space may be provided in the garage. A handicap parking space is required and shall count as one of the three required spaces.
 3. Off-site parking. Adjacent vacant single-family lot(s) may be used for model home parking. A plan to provide parking on an adjacent parcel shall require ownership by the same or an affidavit of authorization from the property owner as well as a surety deposit payable to the City of Cape Coral to convert the property back to a residential or other permitted use when the structure is converted or sold. The deposit shall cover the costs associated with the conversion of the parking lot. The deposit shall be based on no less than 110% of the estimated cost by a professional engineer licensed in the State of Florida which shall be signed and sealed by the engineer, and found to be acceptable to the City. Funds and resulting interest shall be returned upon conversion of the site to a residential or other permitted use, the entire amount if the work is completed by the applicant, or the remaining funds if the City completes the work.
 4. A hedge row of at least 36 inches in height shall be planted and maintained around the vehicular parking area.
 5. On-site or off-site parking shall be a paved or approved impervious surface with appropriate signs and markings, including handicap parking.
 6. Treatment of stormwater runoff will be required for the first inch of runoff from the paved area associated with the parking lot area only.
 7. Model home parking lots require a Limited Site Development Plan approval prior to construction.
- B. Handicapped standards shall be met throughout the home, including access per the Florida Building Code and handrail and grab bar requirements.
- C. Garage office. For any garage being used as an office for a model home the applicant must submit the following:
1. Plan of garage-office facility, including false walls, temporary electrical and plumbing.
 2. Plan showing how garage will be returned to its original use.
 3. \$10,000.00 refundable surety to ensure that the garage is converted back to the FEMA standards for single-family home usage.
- 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

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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, or 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;
 - b. Textured concrete block;
 - c. Stone;
 - d. Brick; or

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e. Formed, decorative, or precast concrete.

2. If the wall of a building is used to meet the opaque feature requirement, such wall shall be surfaced with stucco, brick, stone, textured concrete masonry units, or other concrete surface. Untreated concrete block is not an acceptable finished material. Building walls used as a screening feature shall not have doors or windows.

B. A landscaped area with a minimum width of 10 feet shall be provided around the perimeter of the site. Perimeter landscaping shall consist of a minimum of three canopy trees per 100 feet, three accent trees per 100 feet, and 33 shrubs per 100 feet. Palms trees cannot be used to meet the minimum planting requirement of this section. All shrubs shall be installed at a minimum height of 32 inches and be in a minimum seven-gallon container at the time of planting.

C. In the event a self-storage facility is designed as a multi-story building, the interior of the development is not required to be screened by a free-standing wall or a building wall, provided there are no visible exterior doors providing access to individual storage units. Multi-story self-storage facilities must comply with the nonresidential design standards established in Chapter 8 of this Article.

Section 5.10.17. Landscaping Services 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.

Chapter 11. - CONDITIONAL USES

Section. 5.11.1. Purpose and applicability.

A. Purpose and Intent

1. To provide standards and criteria for review and approval of specified conditional uses for a specific site.
2. To provide reasonable limitations or special conditions for conditional uses, in order to address, minimize, or ameliorate potential impacts of the use on surrounding property and for the protection of the public health, safety, and welfare.

B. General Requirements. Proposed conditional uses must meet the following requirements:

1. The conditional use standards identified in Article 4 for the specific zoning district use and conditional use in question.
2. The proposed conditional use will not result in development that is inconsistent with the intended character of the applicable zoning district.

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- 5973
5974 3. A listed conditional use that does not meet the applicable conditional use standards may apply
5975 for approval as a Special Exception.
5976

- 5977 C. Review Criteria. A Conditional Use may be approved by the Director based on criteria identified in
5978 Article 4. These criteria are specific to each conditional use.
5979

5980 **Section. 5.11.2. Brewpubs.**
5981

5982 Brewpubs in the MXB district must meet the following conditions:
5983

- 5984 A. The area used for brewing, bottling, and kegging of all beverages produced by the establishment shall
5985 not exceed 40 percent of the total floor area of the restaurant, bar, or nightclub, or exceed a total
5986 floor area of 2,500 square feet devoted for brewing, bottling, and kegging, whichever is less.
5987
5988 B. An interior floor plan shall be submitted that clearly shows the area of the building that will be devoted
5989 to the brewing, bottling, and kegging component of the establishment.
5990
5991 C. No outdoor storage shall be allowed including the use of portable storage units, cargo containers, and
5992 tractor trailers, except as follows: spent or used grain may be placed outdoors for a period not to
5993 exceed 24 hours. The temporary stockpiling for spent or used grain shall be:
5994
5995 1. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the
5996 stockpiled spent grains and the distance of the stockpiled grains from property lines and the
5997 building containing the brewpub;
5998
5999 2. Placed only along the side or rear of the building; and
6000
6001 3. Fully enclosed in containers that are screened behind an opaque wall or fence. The wall or fence
6002 shall have a minimum height of six feet.
6003

6004 **Section. 5.11.3. Attached residential of three-units or more.**
6005

6006 Attached residential structures of three-units or more in the RML, CC, NC, MX7, MXB, or SC zoning districts
6007 must meet the following conditions:
6008

- 6009 A. The number of linearly attached units must be between three and nine.
6010
6011 B. Landscaping shall be provided at a rate of two trees and six shrubs per 2,500 square feet of lot,
6012 rounding up to the next full number.
6013
6014 C. Attached residential developments shall incorporate three of the following design elements into each
6015 dwelling unit:
6016
6017 1. Dwelling entry as the primary façade feature;
6018

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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
7. Projections and decorative elements, such as trellises, for visual interest.

Section. 5.11.4. Multi-family dwellings.

Multi-family dwellings in the RML, RMM, CC, NC, MXB, MX7, or SC districts must meet the following conditions:

- A. Multi-family units in RML, RMM, CC, NC, MX, and SC require 700 square feet for a one bedroom and 200 square feet for each additional bedroom.
- B. Building Modulation and Articulation. All multi-family buildings shall provide a combination of volumetric and massing modulation and articulations to prevent the construction of ‘big boxes’, but rather buildings that harmonize their architectural quality in a stylistically pleasant manner. All buildings shall incorporate the following combined elements from the articulation criteria identified below.
 1. A minimum of three of the following volumetric elements shall be provided:
 - a. Pitched roof forms, minimum pitch of 4/12, whose sum covers greater than 30% of the overall roof area;
 - b. Architectural roof overhangs four feet or greater in depth or cornices 12 inches or greater in height;
 - c. Arcades. Arcades may be used as a means of sheltering pedestrian areas, and where provided, shall connect to entrances;
 - d. Accent elements such as tower elements, porticos, cupolas, or domes; or
 - e. A building with frontage 90 feet or less in length shall provide the following minimum massing articulations:
 - i. A minimum of fifty percent (50%) of the cumulative frontage of each façade shall be setback a minimum of five feet from the primary façade and shall be distributed throughout the building frontage and shall not be provided as a single aggregated setback; and

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- ii. A minimum of twenty percent (20%) of each frontage of each facade shall be setback a minimum of eight feet from the primary façade.

2. A minimum of four of the following architectural elements shall be provided:

- a. Stoops on the ground floor and balconies on all floors above the ground floor;
- b. Porches on the ground floor;
- c. Pilasters, string courses, character lines, or other such means of subdividing the facade;
- d. Structural or ornamental details clearly distinct from the primary wall surface, e.g., lintels, sills, door and window surrounds, decorative panels, etc.;
- e. Decorative planters or planting areas a minimum of five feet in width, integrated into the building design; or
- f. Masonry in at least two contrasting tones or textures, accomplished by a change in material or coursing such as brick, natural stone, brick or stone veneer, glass, masonry stucco, decorative concrete block, decorative concrete panels, tile glazing and framing systems, split face or fluted concrete masonry, factory glazed concrete masonry units, or architectural pre-cast concrete.

Section. 5.11.5. Vehicle Repair, Minor.

Vehicle Repair, Minor in the C and CC districts must meet the following conditions:

- A. The number of cars being kept on site, not in a garage bay, shall be limited to three.
- B. All cars kept on site for repairs must be visually screened from the right-of-way and adjacent properties.
- C. All repair work shall be performed within the garage.
- D. No outside storage of materials or chemicals, all installation to occur within garage.
- E. Hours of operation for repair work shall be limited from 7 a.m. to 8 p.m. when adjacent to any residential development.

Section. 5.11.6. Outdoor Screened Storage.

Outdoor Screened Storage in the CC district must meet the following conditions:

- A. The screening must consist of opaque fence or wall. Chain-link fencing (with or without slats) is prohibited for screening.

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B. The minimum height of the screening shall be 6 feet.

C. The height of the screening shall be tall enough to screen items being stored.

D. All perimeter landscaping shall be on the outside of the screening.

E. The screened area must be used in conjunction with principal use.

F. The area used for storage must be an improved impervious surface such as asphalt or concrete.

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 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-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.

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- 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.
- F. Frontage and access shall be from arterial street.
- G. No driveway with ingress or egress to a local street shall be utilized.
- H. Hours of operation shall be 7:00 A.M. until 7:00 p.m.
- I. Employees and customers shall be allowed as long as adequate parking is provided on-site.
- J. No parking shall be allowed on any surrounding parcels.

Section. 5.11.11. Vehicle fueling stations.

Vehicle fueling stations in the C, N, and SC (along primary streets) districts must meet the following conditions:

A. General:

1. All buildings, including pump islands, shall have a 25' setback from all property lines.
2. In no case shall a lot have less than 100 feet of street frontage.
3. Underground storage is required for all receptacles for combustible materials in excess of 55 gallons. Such storage shall comply with all building and fire codes and Environmental Protection Agency standards.
4. The accumulation and storage of waste petroleum products is forbidden, unless in compliance with Environmental Protection Agency standards.
5. Primary services and sales permissible include fueling stations and electric charging stations, and include only the following accessory uses:
 - a. Car wash services;
 - b. Sale of convenience goods; and
 - c. Accessory fast food services without a drive-through.
6. Uses permissible at a gas station do not include body work, straightening of body parts, painting, welding (other than minor repairs), or other work involving noise, glare, fumes, smoke, or other

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characteristics to an extent greater than normally found in vehicle fueling stations. A vehicle fueling station is not a body shop.

7. Outside materials storage is not permissible.

8. Lighting at a gas station shall be designed and installed so as to prevent glare or excessive light above 0.1 foot-candles on adjacent property. No source of illumination shall be allowed if such source of illumination, unshielded, would be visible from a residentially-zoned district to the extent that it interferes with the residential use of that area.

9. The minimum size parcel shall be 1.25 acres.

10. An eight-foot tall opaque wall constructed of concrete block coated with stucco, textured concrete block, stone, brick, or concrete (formed, decorative or precast) shall be constructed between any residential properties and a gas station. The wall shall be constructed within the gas station property, seven and one-half feet from the property line shared by the gas station and any adjacent residential property. The wall shall not be within a sight triangle.

a. The residential side of the wall shall be landscaped with shrubs (seven-gallon and 32 inches at planting) which shall be maintained at a mature height between six and eight feet and 80 percent opacity.

11. Stormwater runoff from the fueling and storage tank loading areas shall be directed to an oil/gas/water separator prior to entering the surface water treatment area for the project.

B. Appearance:

1. All structures on the site shall have a unified architectural theme.

2. Gas station roofs shall be pitched a minimum of 4:12.

3. A minimum of 12-inch overhangs shall be provided

4. Roof and exterior wall surfaces, with the exception of glass areas, shall be nonreflective. Any glass coating shall not reflect outward.

5. The use of flat steel or metal panels for the exterior walls of the gas station shall be prohibited.

6. The rear and sides of buildings shall be finished with material that in texture and color resembles the front of the building.

7. Glass windows and doors must make up at least 25 percent of the front elevation and 15 percent of the side elevations at eye level.

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8. Any canopy shall be restricted to a clearance of 14 feet in height and shall be consistent with the primary structure design. The canopy columns and roof shall be architecturally finished to match the building.
9. The commercial advertising on the canopy shall be limited to 10 percent of the exterior area of the canopy and backlighting shall not be permitted on the canopy.
10. Perimeter walls, if utilized, shall be architecturally compatible with the principal structure.

C. Landscaping:

1. Front yard buffer. An enhanced front yard buffer shall be required for automobile service stations to limit the visual impact of the use. The following requirements shall be utilized:
2. Area to be landscaped. A strip of land at least 10 feet in depth, abutting the right-of-way and extending the length of the property except the entrance and exit drives, shall be landscaped.
3. Minimum tree requirements. Palm clusters on the ends of landscape buffers parallel to the gas pump canopy. The palm clusters shall consist of three palms with a minimum of 13 feet of gray wood, at planting. One cluster shall be provided for every 30 feet of road frontage;
4. Landscape accents. The use of landscape accents, such as planters and window boxes, shall be incorporated into the overall landscape design of the building and the site;
5. Other materials. The remainder of the required landscaped area shall be landscaped with grass, ground cover, or other approved landscaping treatment.

- D. Vehicle Fueling Stations in the SC zoning district shall only be allowed with frontage along Del Prado Boulevard.**

Section. 5.11.12. Religious Institutions.

Religious Institutions in the R1, RML, RMM, RE, and A districts shall have a minimum size of three acres.

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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.

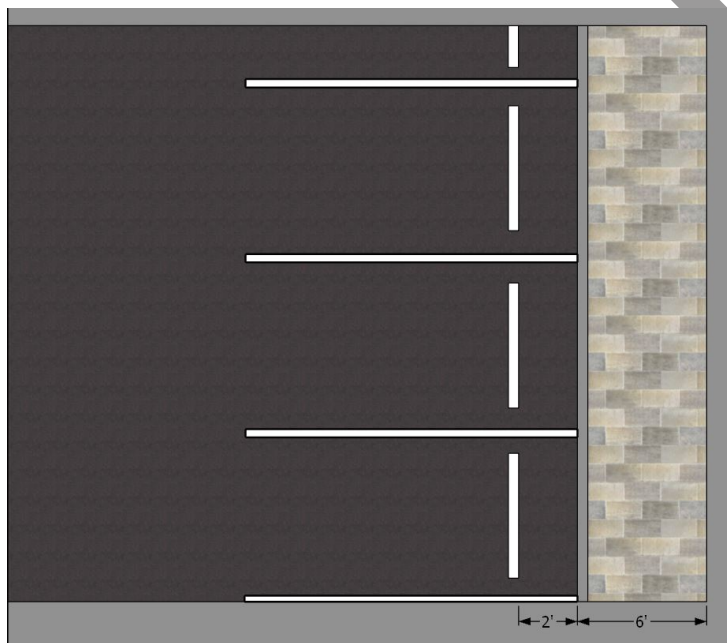
Off-street parking facilities required by this article shall be fully within the property lines of the parcel they are intended to serve unless an alternative location is approved as provided in this Chapter.

- 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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- B. Driveways. All driveways shall be designed and constructed per the requirements set forth in the Engineering and Design Standards of Cape Coral.
- C. Pedestrian Safety. All off-street parking facilities, including drive aisles, travel lanes, and driveways shall be arranged to minimize hazards to pedestrian movement in the immediate area or encroach upon fire lanes, walkways, and visibility triangles. Pedestrians must be protected from exiting a building into vehicular traffic in an emergency. The applicant shall provide a walkway or a protected area with a minimum width of the doorway plus five feet beyond the swing of the door. All exit discharges from buildings shall be protected by permanent means to ensure pedestrian areas are protected from vehicular encroachment.
- D. Pedestrian Safety Zones. Within parking areas over 100 spaces for commercial uses, paved pedestrian walkways at least six feet in width shall be provided at 200-foot intervals. Such walkways may be interrupted by necessary drive aisles, but shall include adequate wheel chair ramps, if necessary. Curbs or wheel stops shall be so placed to prevent any portion of the vehicle to encroach upon the pedestrian safety zone. Diagram 6.1.3. illustrates a pedestrian safety zone.

Diagram 6.1.3. Pedestrian Safety Zone



Section. 6.1.4. Off-street loading facilities.

Appropriate and adequate loading facilities shall be required for businesses which receive regular deliveries.

A. Design and location.

1. Loading spaces may not be blocked by parking spaces.

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2. Design of the space shall be such that the delivery vehicles can maneuver without damaging landscaped areas.
3. Loading spaces may be shared by adjacent properties when delivery schedules do not overlap and an access agreement has been completed.
4. Loading zones may not be placed where they obstruct required fire lanes and access to hydrants.
5. Loading zones shall be in a place which ensures convenient and safe entry and exit for the users of the loading zone, and the convenience and safety of pedestrians and motorists using the development.

Section. 6.1.5. 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 or Public Works Director shall make the final determination regarding visibility triangles.

Section. 6.1.6. Common driveways, shared parking, and off-site parking.

- A. Common driveways shall be encouraged and may be required to reduce the number of curb cuts along a right-of-way. Driveways shall be in accordance with the Engineering Design Standards. Driveway access to State and County maintained roadways are regulated by FDOT or Lee County and require separate permits from the respective agency prior to commencement of construction. Approval of a common driveway will require submittal of a notarized shared access agreement and easement, acceptable to the City, which shall be recorded against the title for each property involved.
- B. Off-site parking and shared parking. In an instance where a business is unable to provide adequate parking on-site, off-site parking may be approved by the Director. Shared parking agreements and off-site parking agreements shall be reviewed as often as is appropriate to ensure compliance and adequacy of all provisions.
 1. Approval of off-site parking shall be dependent upon:

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- a. Safe and convenient access to the off-site parking from the business which will be utilizing the off-site parking;
 - b. Proof of ownership of the parking lot by the business or a recorded parking agreement recorded against the title of the property to utilize the parking, which may not be eliminated or modified without concurrence by the City;
 - c. Evidence that the parking will be available to the business during the times when the parking will be needed; and
 - d. Appropriate paving, marking, and lighting of the off-site parking.
2. In addition to the above requirements, to qualify for shared parking approval one of the following must apply:
 - a. It can be proven that the uses in question have peak parking demands during differing times of the day or days of the week; or
 - b. A finding is made that there will be a lower demand for parking due to a high proportion of multi-purpose visits. The applicant shall provide documentation to show that the proposed parking for the multiple uses will be adequate. This documentation shall account for all the potential uses allowed in the zoning district on the properties to be served by the shared parking.
 - C. Proximity to dedicated city parking areas. Any development within 25 feet, excluding alleys and walkways, of a dedicated city parking area may utilize that area to satisfy off-street parking requirement, provided a sufficient number of improved spaces exist in the city parking area to accommodate the number of spaces otherwise required by this ordinance for such development. If a sufficient number of improved parking spaces do not exist at the time of application, the owner or developer may improve the dedicated city parking area to the extent necessary to provide such sufficient number of improved parking spaces in accordance with the City of Cape Coral Engineering Design Standards. Once the dedicated city parking area has been properly improved and inspected, the city shall be responsible for all maintenance of the public parking area.

Section. 6.1.7. Amount of required parking.

- A. Generally.
 1. The City shall not approve the construction of a parking lot with more than 110 percent of the parking spaces required in Table 6.1.7.A. This shall not apply to development that have a minimum off-street parking requirement of 50 spaces or less.
 2. Accessible parking spaces shall meet ADA requirements.
 3. Bicycle parking. Permanently placed bicycle parking shall be provide in accordance with Subsection 6.1.7.B and Table 6.1.7.C.

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4. Opportunities for reduction in parking requirements. A developer may request a reduction in parking during the site plan process by using the following methods:

- a. If the Institute of Transportation Engineers (ITE) Reference Manual entitled Parking Generation allows a lesser number of parking spaces for the proposed use or a use of similar characteristics, then the number of parking spaces required for a development may be reduced.
- b. A reduction in the required number of spaces may be allowed if the developer provides the city with credible evidence that the parking needs are actually less than those reflected in the Table of Parking Standards or that the need for off-street parking spaces would be met through alternative means. Such credible evidence may include parking generation studies conducted within the City of Cape Coral or other similarly sized communities.

TABLE 6.1.7.A. Required Number of Parking Spaces for Uses.

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 space per efficiency or studio unit
	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

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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
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

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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
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*	

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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
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

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 (SC) and Mixed-Use Bimini (MXB) Parking Requirements.

TABLE 6.1.7.B. MINIMUM PARKING SC AND MXB DISTRICTS				
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.				

- 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

- 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.

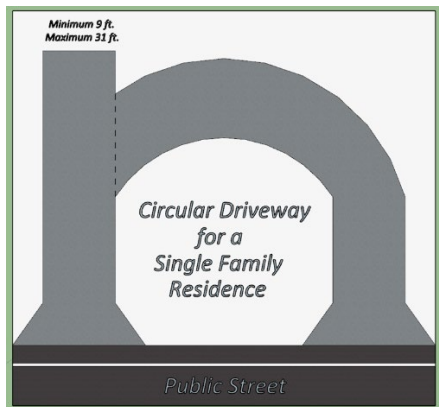
- A. Access to buildings. Parking shall not interfere with ingress-egress doors for stairwells, transformer rooms, elevator machine rooms, trash rooms, or any other use requiring clear access aisles for services.
- B. Marking and identification. All parking and loading spaces other than for single-family 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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- 218
219 C. Use of spaces. All off-street parking facilities shall be used solely for the parking of vehicles in
220 operating condition. No automotive repair work except emergency service, no storage of
221 merchandise, and no motor vehicles which are being offered for sale by a business in the
222 development shall be permitted on or within any required off-street parking area.
223
- 224 D. Surfacing. All off-street parking (spaces and aisles) and drives connecting such areas with the street,
225 including spaces required for serving single-family detached residences or duplexes, shall be
226 surfaced in accordance with the Engineering Design Standards unless an alternative landscaped
227 area is approved for occasional parking as part of a development approval. All parking surfaces shall
228 be maintained in a condition that is safe and free of potholes.
229
- 230 E. Unpaved parking. Clearly identified, non-paved parking areas may be permitted, only in accordance
231 with this Subsection. Unpaved parking, which is graded and covered with sod to provide a surface
232 that is durable, stable, and will also assist in managing stormwater, dust, and erosion may be
233 provided for up to 50% of the off-street parking requirements for the following uses:
234
- 235 1. Agriculture or farming uses;
 - 236
 - 237 2. Cemeteries;
 - 238
 - 239 3. Funeral homes, mortuaries, and crematoria;
 - 240
 - 241 4. Places of worship;
 - 242
 - 243 5. Religious facilities; or
 - 244
 - 245 6. Parks and recreation facilities owned by a governmental entity.
246
- 247 F. Parking on unpaved areas shall be prohibited on all parcels other than those specifically allowed by
248 this code to utilize grass parking. Where parking occurs on unpaved areas, a violation may be issued.
249 Resolution of the violation may include providing additional parking spaces, not to exceed the
250 allowed pervious surface requirement for that use.
251
252
- 253 G. Off-street circulation and maneuvering.
254
- 255 1. Off-street parking facilities for multi-family, industrial, or commercial developments shall
256 provide for on-site vehicle circulation and maneuvering in accordance with the Engineering
257 Design Standards. Backing into the street right-of-way shall not be permitted for any uses other
258 than single-family detached residences on a local street.
259
 - 260 2. Single-family detached residences which are on a right-of-way classified as a collector or higher
261 classified roadway, and all duplex residences shall be required to install a circular driveway to
262 eliminate the necessity to back into the roadway. See diagrams 6.1.8.A for the typical circular
263 driveway example.
264

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Diagram 6.1.8.A. Single-family detached circular drive.



- 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.
 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.

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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:

- a. Each of the following dedicated city parking areas in the Cape Coral CRA is hereby assigned a parking allocation factor as provided below:

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	

- b. For purposes of this subsection, when a "parking credit" must be calculated for a parking area site, such parking credit shall be calculated by multiplying the area of the site (in square feet) by the parking allocation factor related to the dedicated city parking area upon which the site is located. This credit shall be deducted from the minimum parking requirements.

- c. When the area of a parking area site changes, the following shall apply:

- i. In the event the area of a parking area site is increased as the result of the acquisition of property that was not a part of a parking area site as of December 1, 2005, the increase in area that results from such acquisition shall, for purposes of this subsection, be treated in the same manner as property, no part of which comprised a parking area site.
- ii. In the event the area of a parking area site is increased as the result of the acquisition of property that was a part of a parking area site as of December 1, 2005, any PILOP fees previously paid as the result of the use(s) or structure(s) on the conveyed property shall be treated in the same manner as any PILOP fees, if any, previously paid by the receiving site provided that the minimum total parking requirements for the conveying site decrease as the result of the conveyance of property. If the minimum total parking requirements for the conveying site do not decrease as the result of the transfer, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the enlarged (receiving) site.

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iii. In the event the area of a parking area site is decreased as the result of the conveyance of property that was a part of a parking area site as of December 1, 2005, regardless of whether such conveyance is to another parking area site or to a property that is not a parking area site, then any PILOP fees previously paid in regard to the conveying 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

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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.

- (4) Alternatively, if, after the initial development of such a site, the area of the site decreases, 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. less a parking credit and any PILOP fee(s) previously paid to offset the parking requirement of any use(s) or structure(s) located on the area of the site remaining after the decrease(s) in area, in accordance with § 6.1.8.J.1.c.

- ii. With respect to parking area sites that are developed and occupied as of December 1, 2005, the following shall apply:

- (1) The first time such a site is altered after December 1, 2005, if the alteration would result in an increase in the minimum parking requirement for the site of more than 25% over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for such site as of that date, the site 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 as provided in 6.1.8.J.1.b.
- (2) Alternatively, if such an alteration of the site would result in an increase in the minimum parking requirement for the site of not more than 25% over the amount required for the site for the use(s) and structure(s) on the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for such site as of that date, then the alteration of such site shall require the site to provide the minimum parking required for the site (pursuant to Table 6.1.7.B.) less the amount attributed to the site for the use(s) and structure(s) on the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for the site as of that date. Further alterations to the site that do not, either singularly or cumulatively, increase the minimum parking requirement for the site by more than 25% over the amount required for the site for the use(s) and structure(s) on the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for such site as of that date, shall require the site to provide the minimum parking required for the site (pursuant to Table 6.1.7.B.) less the amount attributed to the site for the use(s) and structure(s) on the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for the site as of that date and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area any PILOP fee(s) applicable pursuant to § 6.1.8.J.1.c.
- (3) If further alterations to a site, cumulatively, increase the parking requirement for the site by more than 25% over the amount required for the site for the use(s) and structure(s) on the site as of December 1, 2005, as reflected in the certificate(s) of use as of that date (or, for residential uses, the residential occupancy in effect for such site as of that date), then the alteration of such site that would result in the increase by more than 25% shall require the site to provide the minimum parking required for the site (pursuant to Table SC-5) less a parking credit calculated as

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provided in § 6.1.8.J.1.b, based on the area of the site at the time of the alteration that would result in the more than 25% increase, and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant to § 6.1.8.J.1.c.

- iii. With respect to parking area sites that are developed and unoccupied as of December 1, 2005, the following shall apply: The first time such a site is occupied following December 1, 2005, the site 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 by multiplying the area of the site (in square feet) by the parking allocation factor related to the dedicated city parking area upon which the site is located. The site would need to meet the aforesaid parking requirement prior to receiving, for non-residential uses, a certificate of use and, for residential uses, prior to any residential occupation of the structure. If the land area of the parking area site increases following December 1, 2005, but prior to the occupancy 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.
 - iv. If the structure(s) on any parking area site are demolished, razed, or relocated to a site other than a parking area site, then any subsequent redevelopment of such parking area site shall require the site to provide the minimum parking required for the site (pursuant to Table 6.1.7.B.) less a parking credit calculated as provided in § 6.1.8.J.1.b, based on the area of the site at the time of the redevelopment, and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant to § 6.1.8.J.1.c. After such redevelopment is completed, any alteration(s) to the site shall be treated, for purposes of determining the parking requirements of the site, in the same manner as alteration(s) of any other developed parking area site under this subsection.
 - e. With respect to each dedicated city parking area located in the Cape Coral CRA. the City Council shall, by resolution, identify all sites that would be parking area sites regulated by this subsection and also, for all such sites that are developed as of December 1, 2005, identify the minimum parking requirement for the use(s) or structure(s) on the site as of December 1, 2005, as though such sites were within the South Cape Downtown District.
- K. Satellite parking within the South Cape District. For purposes of this subsection, a satellite parking arrangement exists when the minimum total parking (excluding on-site parking) required for a site is to be provided on a site at a location different from the site which will be served by the parking as required in § 6.1.7.A. When all or part of the minimum total parking (excluding on-site parking) required for a site is to be satisfied by one or more satellite parking arrangements, such satellite parking arrangements shall comply with the requirements of this subsection as follows:
- 1. Except as otherwise provided herein, satellite parking shall be located not more than 1,320 feet from a public entrance to the principal building which contains the use associated with such

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satellite parking, except that no satellite off-street parking area shall be located on parkway or primary street designations or across Del Prado Boulevard or Cape Coral Parkway from the use it is serving. When the site that contains the use(s) to be served by the satellite parking offers valet parking at all times that such use(s) are open to the public so that valets will transport the vehicles of patrons of such use(s) to the satellite parking site(s) and such valet service is documented in an agreement entered into by the city and the owners of the property to be served by the satellite parking and the property offering the satellite parking, then the satellite parking site(s) may be more than 1,320 feet from a public entrance to the principal building containing the use served by such valet parking.

The aforesaid agreement shall be in addition to the agreement required by § 6.1.8.K.1.4. and shall be recorded in the public records of Lee County at the sole expense of the owner(s) of the property to be served by the valet parking. Upon request by the owner of the property to be served by a proposed satellite parking location, the City may allow satellite parking that does not include valet parking to be located more than 1,320 feet from a public entrance to the principal building which contains the use associated with the proposed satellite parking or to be across Del Prado Boulevard or Cape Coral Parkway from the use it is serving, if the City finds that the proposed satellite parking would not be detrimental to the public health, safety, and welfare of the persons utilizing it. Factors which shall be considered by the City in making this determination include, but are not limited to, the following: the proximity of the proposed satellite parking to a signalized intersection, the availability of pedestrian crosswalks or other pedestrian-oriented features at any intersections and any other locations between the proposed satellite parking and the use(s) to be served by it, whether the satellite parking is to be utilized by employees only or by patrons of the use(s) to be served, and the availability of any complementary or supplementary services to such parking, such as trolley or tram systems that would provide transportation for the public to and from the satellite off-street parking area and the use(s) to be served. If the City approves satellite parking at a distance of more than 1,320 feet or across Del Prado Boulevard or Cape Coral Parkway, the City may impose conditions on such satellite parking that would be reasonably designed to mitigate any negative effects from such approval. Examples of such conditions include the requirement that a satellite off-street parking area be clearly identified for only employee parking, the requirement that a pedestrian walkway between the off-street parking area and the use(s) it serves be covered so as to protect pedestrians from the elements, and that any supplementary or complementary services be continued so long as the satellite parking is being used.

2. The satellite off-street parking area and the site which contains the use associated with such satellite parking shall be shown on a site plan, development plan, or other equivalent plan. The submitted plan shall show the pedestrian connection(s) between the two sites and shall demonstrate that all pedestrian connections have sidewalks, or other paved walkways, dedicated solely to pedestrians. In addition, the plan shall demonstrate that the distance between the sites is not more than 1,320 feet when measured from a public entrance to the principal building (on the site to be served by the satellite parking) to the closest point on the proposed satellite parking site.
3. Satellite parking spaces on the off-site lot shall only be counted if they are above and beyond the minimum parking requirement for uses on the off-site lot.

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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.
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3. Temporary parking of a commercial vehicle or recreational vehicle while such vehicle is being used by the operator for travel to and from the residential property for personal reasons of a temporary nature such as for a meal or to visit or serve an ill person. Such temporary parking shall not, however, exceed a total of two hours duration during any 24-hour time period.

4. Emergency parking of a disabled commercial vehicle, recreational vehicle, or trailer. However, any such commercial vehicle, recreational vehicle, boat, or trailer shall be removed from the residential district within 24 hours by wrecker towing or other available means regardless of the nature of the emergency.

Note: The following requirements will be modified as necessary to conform to Council direction on these parking issues.

C. Any combination of the following motor vehicles or trailers may be parked in single-family residential districts, on a parcel improved with a single-family residence:

1. Any light van, sports utility vehicle (SUV), pickup truck, jeep, motorcycle, automobile, or similar type of motor vehicle which is not a commercial vehicle. Furthermore, 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 may be parked outside of a permitted garage or carport provided that all commercial lettering has been concealed by a cover of a type that is applied directly to the surface of the motor vehicle or attached to the vehicle in such a manner that the vehicle can be safely driven on the public streets with the cover in place. If more than one such cover is attached to or is located on a vehicle, then all of such covers on or attached to such vehicle shall be the same color. For purposes of this section, covers 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 vehicle while it is being driven shall be presumed to be insufficient to bring the commercial vehicle within the exemption provided by this subsection. Furthermore, this exemption shall not apply to any motor vehicle that is considered to be a "commercial vehicle" under this section by virtue of the nature of its vehicle type and not solely because commercial lettering has been affixed to it regardless of whether such vehicle or any lettering affixed to it has been covered in part or in full of such vehicle is parked outside of the confines of a permitted garage or carport.

2. Any trailer or motor vehicle described in § 6.2.1.G which is a commercial vehicle, provided that:

- a. The commercial vehicle or trailer is parked in a permitted garage or carport;
- b. When parked in a garage or carport, no part of such commercial vehicle or trailer may project horizontally beyond the roofline of the garage or carport; and
- c. When parked in a carport, such commercial vehicle or trailer is screened on three sides.

D. No vehicle for human habitation shall be kept or parked on premises zoned for residential purposes or on adjoining public rights-of-way, except when parked entirely within the confines of a garage or 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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- b. A contractor or subcontractor under agreement with the city to accomplish a municipal purpose; or
- 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.

Note: The following requirements and section numbering will be modified as necessary to conform to Council direction on these parking issues.

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.

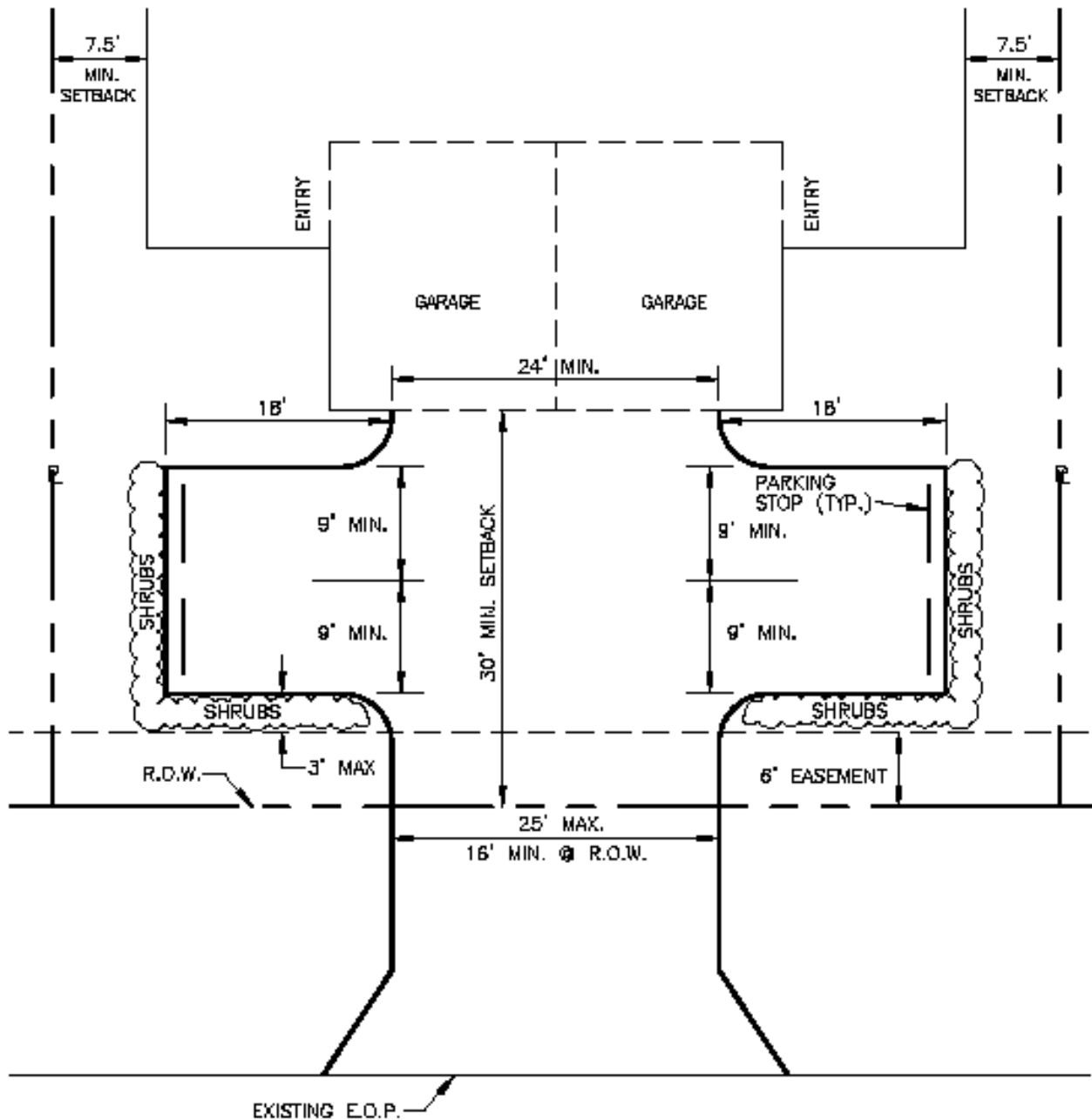
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Section 6.2.2 Parking area design requirements for duplex dwellings:

Parking areas for duplex dwelling shall conform to one of the following designs:

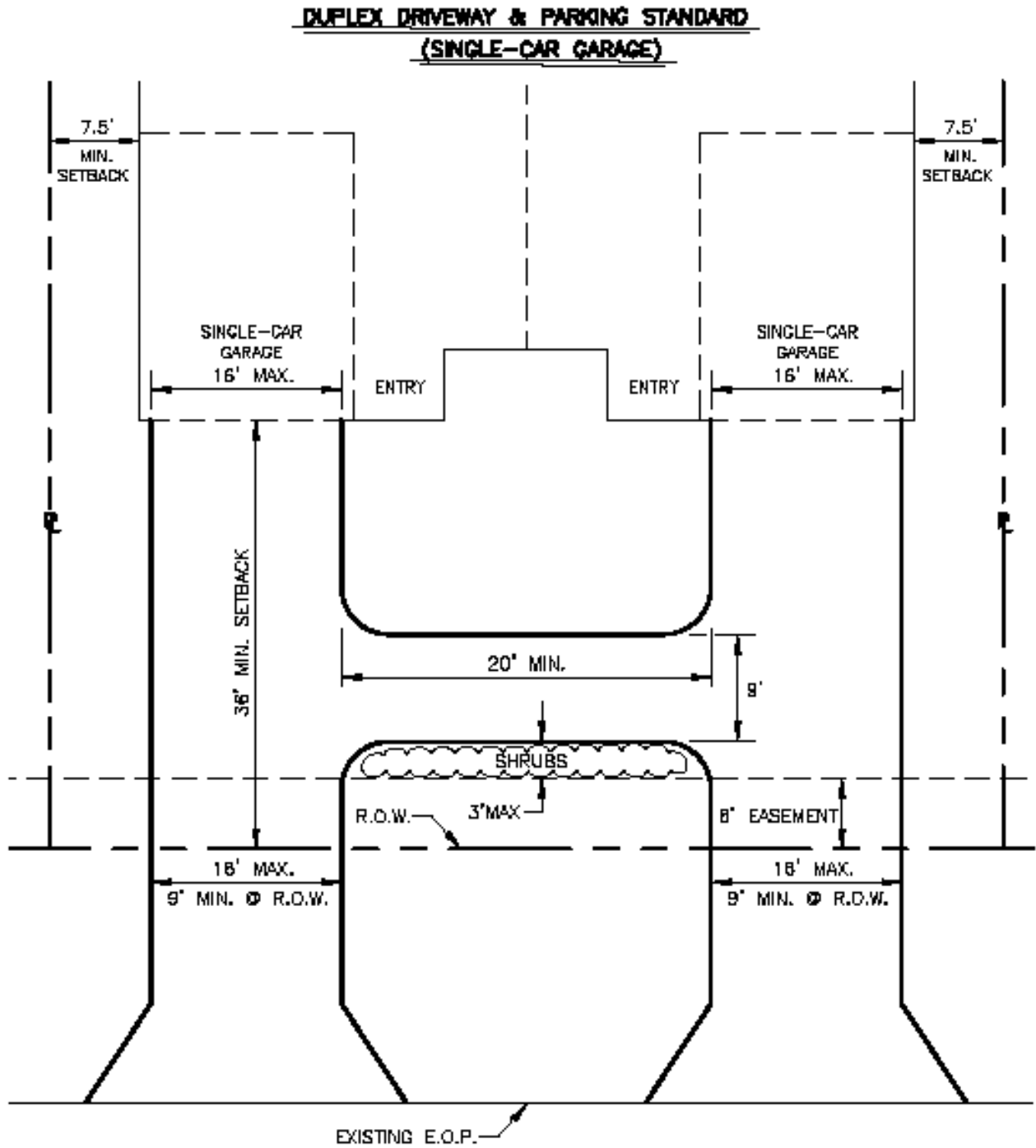
Diagram 6.2.2.1. Duplex with garages in the middle.

DUPLEX DRIVEWAY & PARKING STANDARD



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Diagram 6.2.2.2. Duplex with one-car garages not in the middle

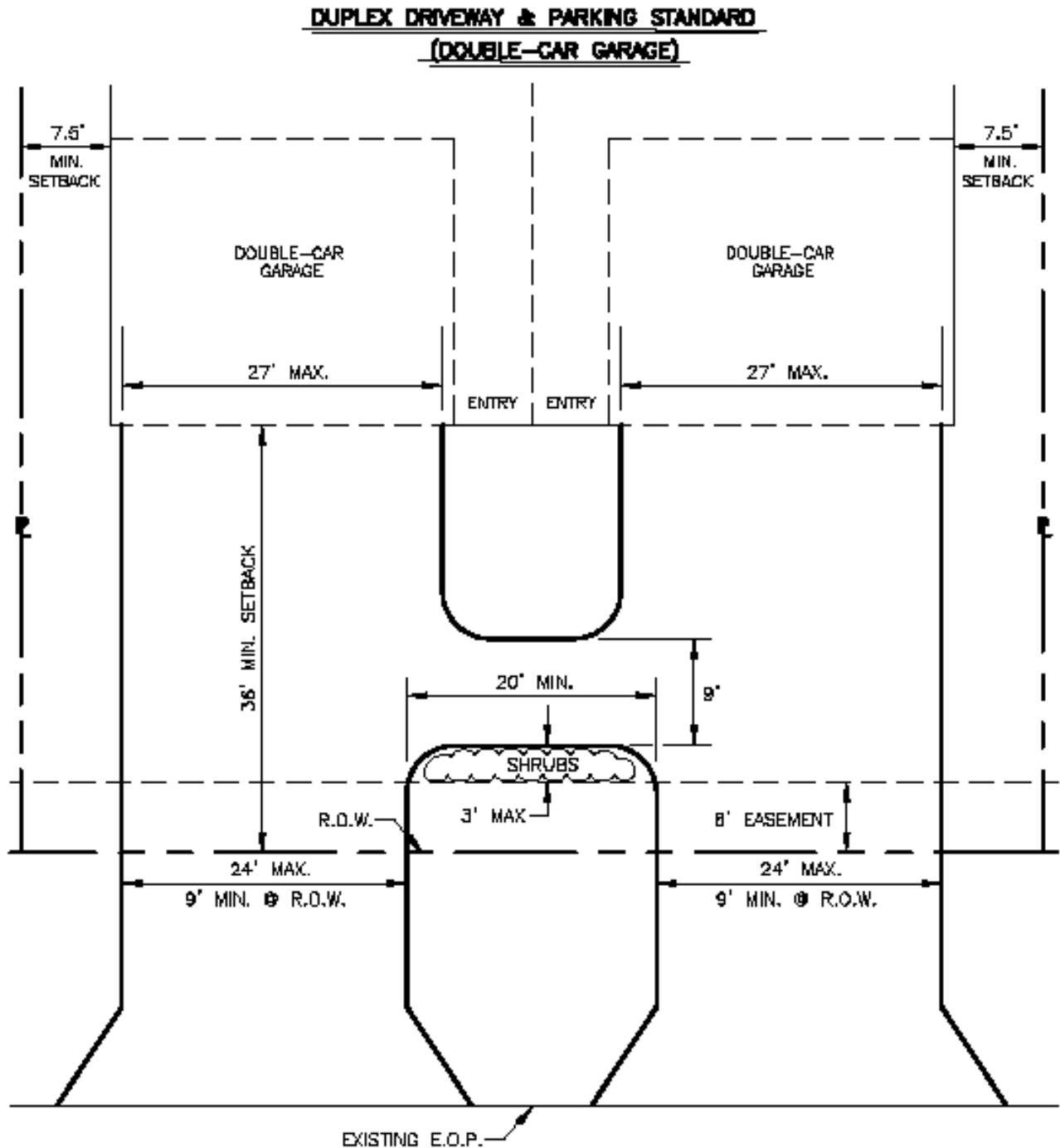


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Diagram 6.2.2.3. Duplex dwelling with two-car garages not in the middle.



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Section 6.2.3 Parking regulations for property zoned industrial and agricultural.

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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the owners or apparent owners of the vehicle, boat, trailer, and the land shall advise of the possible appeal provided for in the following subsection B.

- B. Within the three-calendar day period specified in the aforesaid notice, the owner of the vehicle, boat, trailer, or the owner of the real property may appeal to a Special Master utilized by the city to conduct hearings concerning violations involving vehicle(s), boat(s), or trailers) parked, stored, kept, or otherwise maintained on vacant real property. The appeal shall be filed at the office of the City Manager, must attach a copy of the notice of violation appealed, and must include the name of the person filing the appeal and an address at which such person may be served notice of the hearing on the appeal. The hearing on the appeal shall be conducted the same as a code enforcement hearing for a case initiated by a Code Enforcement Officer pursuant to §§ 2-85 through 2-92 of the Code of Ordinances of the City of Cape Coral, Florida. The Special Master shall determine the validity of the violation and may for good cause extend the time for compliance or removal. If such an appeal is instituted, no removal of the vehicle, boat, or trailer shall be required until the appeal has been dismissed or finally determined by the Special Master with a finding of a violation.
- C. If no appeal is made or if an appeal is made but dismissed and the vehicle, boat, or trailer remains in violation after the three calendar day period, or if an appeal is resolved with a finding of a violation and the vehicle, boat, or trailer is not removed within whatever time period is allowed by the Special Master, the City Code Enforcement Manager shall cause such vehicle, boat, or trailer to be towed from the property and thereafter stored and disposed of in accordance with applicable state law or city ordinance. The Special Master may also assess fines and costs; the same as for any code enforcement violation.
- 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

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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.

I. In order to render an order finding the alleged violator guilty and denying the appeal, the Special Master must find that a preponderance of the evidence indicates that the named violator was responsible for the violation as alleged.

J. At the conclusion of the hearing, the Special Master shall issue an order containing findings of fact, based on evidence of record, and conclusions of law.

Section 6.2.7 Vehicles and trailers for sale.

It shall be unlawful for any person to park, store, keep, maintain at any time, or permit to be parked, stored, kept, or maintained on any unimproved property in any zoning district, or outside of a completely enclosed building on any improved property in a W, C, CC, P or I zoning district, any motor vehicle or trailer of any kind, type, or description, including any boat mounted on a trailer, which is being displayed for sale, hire, or rental except as provided in subsections I., J. and K. below. 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 or trailer is displayed for sale, hire, or rental in violation of this subsection .8, City Code Enforcement Officer(s), law enforcement officer(s), or such other city employee(s) as may be designated by the City, are authorized to cause such vehicle or trailer to be immobilized or towed from the property to a garage or other place of safety, and thereafter disposed of in accordance with applicable state law or city ordinance. The city shall not be responsible for the towing charges resulting from the removal of the vehicle from the property.

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Instead, the owner(s) of the vehicle shall be responsible for all such charges. Immobilization and towing shall be accomplished in accordance with the following subsections B. through H.

- B. A motor vehicle or trailer parked in violation of this section may be immobilized with a "wheel lock," "boot," or other suitable device as long as a notice of violation is placed by the Code Enforcement Officer on the vehicle or trailer indicating all of the following:
1. That the vehicle or trailer is in violation of this section and that it must be removed from the property within ten calendar days from the date of the notice or it will be subject to removal by the city;
 2. That the notice of violation may be appealed as provided in the following subsection D.;
 3. That the wheel lock, boot, or other immobilization device will be removed from the vehicle or trailer upon the posting with the city of a \$200 bond, in the form of cash, certified check, or surety bond; and
 4. The name of the city official or department with which such bond must be posted and the street address thereof.
- C. The Code Enforcement Officer shall make every reasonable attempt to ascertain the owner of the motor vehicle or trailer and the owner of the real property on which it is unlawfully parked, and to provide such owner(s) with a copy of the written notice of violation placed on the vehicle or trailer, such copy to be 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.
- D. Within the ten-calendar day period specified in the aforesaid notice, the owner of the vehicle or trailer or the owner of the real property may appeal to a Special Master appointed under § 6.2.6.E. of this chapter. The appeal shall be filed at the office of the City Manager, must attach a copy of the notice of violation appealed, and must include the name of the person filing the appeal and an address at which such person may be served notice of the hearing on the appeal. The hearing on the appeal shall be conducted the same as a code enforcement hearing for a case initiated by a Code Enforcement Officer pursuant to §§ 2-85 through 2-92 of the Code of Ordinances of the City of Cape Coral, Florida. The Special Master shall determine the validity of the violation and may for good cause extend the time for compliance or removal. If such an appeal is instituted, no removal of the vehicle or trailer shall be required until after said appeal has been dismissed or finally determined by the Special Master with a finding of a violation of this subsection .8.
- E. If no appeal is made or if an appeal is made but dismissed and the vehicle or trailer remains in violation after the ten calendar day period, or if an appeal is resolved with a finding of a violation of this subsection and the vehicle or trailer is not removed within whatever time period is allowed by the Special Master, the City Code Enforcement Manager shall cause such vehicle to be towed from the property and thereafter stored and disposed of in accordance with applicable state law or city ordinance. The Special Master may also assess fines and costs, the same as for any code enforcement violation.

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The city shall not be responsible for the towing charges resulting from the removal of the vehicle from the property. Instead, the owner(s) of the vehicle shall be responsible for all such charges.

F. The authorization in this subsection .8 for the towing of vehicles and trailers unlawfully displayed for sale, hire, or rental 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.

G. The provisions of § 6.2.6.E. through J. above, regarding Special Masters and Special Master hearings, shall apply equally with regard to this § 6.2.7.

H. Code Enforcement Officer shall be notified and the wheel lock, boot, or other immobilization device shall, as soon as practicable, be removed from the vehicle or trailer. If no appeal of the violation is timely filed, or if an appeal is filed and is dismissed, the bond shall be forfeited to the city to cover the cost of inspection, notice of violation, and immobilization of the vehicle or trailer. If an appeal is filed and ultimately results in a finding by the Special Master that no violation of this subsection .8 occurred, the bond shall be returned to the person who posted it. If an appeal is filed and ultimately results in a finding by the Special Master that a violation of this subsection .8 occurred, the bond shall be applied to any fines and costs assessed against the violator by the Special Master.

I. If a motor vehicle being displayed for sale, hire, or rental is parked by the owner outside of a completely enclosed building in a designated parking space on any improved property in a W, C, CC, P, or I zoning district, while the owner of the vehicle is attending or participating in activities or is being treated or served by or is shopping at a facility located on such property, the motor vehicle and its owner shall not be in violation of this subsection .8. However, the leaving of any such vehicle on the same property for a period of eight consecutive hours shall create a rebuttable presumption that the owner is not attending or participating in activities or is being treated or served by or is shopping at a facility located on such property and that the motor vehicle and its owner are in violation of this subsection .7.

J. This subsection .7 shall not apply to any motor vehicle or trailer offered for sale on property developed and used for a licensed business which includes the sale of such vehicles or trailers or to any motor vehicle or trailer while it is being repaired on property developed and used for a licensed business which includes the repair of such vehicles or trailers.

K. This subsection .7 shall not apply to motor vehicles or trailers offered for sale on any property pursuant to a City Council special event approval.

Section 6.2.8 Exemptions.

A. The provisions of this section shall not apply to vehicles parked on the premises of churches, clinics, schools, child care facilities, assisted living facilities, public libraries, public buildings, public and club swimming pools, private clubs, golf courses, utilities, hotels and motels, and parks and recreational areas, while the persons transported thereby are attending or participating in activities or being treated or served thereat, nor to buses, trucks or trailers parked at any time in a space prepared or designated therefor on said premises, if such vehicles are used or operated by or for the operation

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of the places or institutions designated, except that such vehicles cannot be used for residential purposes.

B. The provisions of this section shall not apply to vehicles parked on unimproved or vacant lots within the boundaries of the South Cape zoning district, provided the following requirements are met:

1. The unimproved or vacant property must be zoned for commercial use and must be immediately adjacent to the business premises for which parking is being provided. For purposes of this section, the phrase **IMMEDIATELY ADJACENT** shall mean sharing all or part of a property line with the business premises or directly across a street or alley from the business premises, provided that the width of such street or alley is 50 feet or less and provided that all or part of the unimproved or vacant property lies within an extension of the property lines of the business premises across the street or alley.
2. If the vacant property which will be utilized for parking is not owned by the same person or entity as the developed commercial property it is intended to serve, the owner of the developed commercial property must have a bona fide lease for the adjacent vacant or unimproved property.
3. Parking on the vacant or unimproved property shall be limited to only patrons of the adjacent business and only during the hours that such business is in operation. The vacant or unimproved property shall be posted with a sign that states the foregoing two restrictions.

Section 6.2.9 Authority to signpost designated areas.

The City Manager shall have the authority to post signs designating areas of regulated or restricted parking as provided by F.S. §§ 316.006 and 316.008 (1973) or other applicable laws.

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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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Further it continues to be the purpose of this Article to promote optimum conditions for serving sign owners' needs and respecting their rights to identification while balancing the aesthetic and safety interests of the community. The regulation of signs within the City is necessary and in the public interest, and these regulations have been prepared with the intent of enhancing the visual environment of the City and promoting its continued well-being, and are intended more specifically to:

- 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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- H. Zoning District Considerations. To encourage and allow signs that are appropriate to the zoning district in which they are located.
- I. Scale, Integration, and Design. To establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains; to foster the integration of signs with architectural and landscape designs; to provide flexibility and encourage variety in signs, and to relate signage to the basic principles of good design; and to promote the use of signs that positively contribute to the aesthetics of the community, are appropriate in scale to the surrounding buildings and landscape, and advance the City's goals of quality development.
- J. Maintenance and Safety. Except to the extent expressly preempted by state or federal law, to ensure that signs are constructed, installed, and maintained in a safe and satisfactory manner, and to protect the public from unsafe signs.
- K. Property Values. To protect property values by precluding, to the maximum extent possible, sign types that create a nuisance to the occupancy or use of other properties because of their physical characteristics such as their size (area), height, number, illumination, and movement; and to protect property values by ensuring that the number of signs are in harmony with buildings, neighborhoods, and conforming signs in the area.
- L. Enforcement. To enable the fair and consistent enforcement of these sign regulations; and to provide standards regarding the non-communicative aspects of signs, which are consistent with local, county, state, and federal law.

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, 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;
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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;
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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;
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227 U. Signs that interfere with any opening required for ventilation;
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229 V. Signs resembling Traffic Control Device Signs;

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W. Signs with exposed raceways;

X. Snipe Signs; and

Y. Vehicle signs.

Section 7.2.2. Signs in the Public Right-of-Way

A. Signs allowed in the public right-of-way. No signs shall be erected, installed, or located in the public right-of-way or shall project over the public right-of-way, except permanent signs of the following type(s):

1. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, announce public events, and direct or regulate pedestrian or vehicular traffic.
2. Signs that are placed within or on structures that are public service related, including bus stop signs, bench/shelter signs, and other informational signs. These structures shall be erected by or on behalf of a public transit or communications company or the city. These structures and the character, size, content, nature, and design of signs on such structures shall be approved by the city through a contract or other agreement approved by the City Council prior to the erection of such structures or the installation of such signs. If such structures cannot be in the public right-of-way as the result of safety factors, right-of-way constraints, or other factors or if it is more practicable to locate such structures on a site other than public right-of-way, the structure may be placed on private property, provided that prior written consent is obtained from the property owner.
3. Informational signs of a public utility regarding its poles, lines, pipes, or facilities.
4. Development identification signs in conformity with 7.4.2.
5. Directional signs in conformity with 7.4.2.
6. Non-commercial signs in conformity with 7.4.2.
7. Traffic Control Device Signs installed by or on behalf of a government body.

B. Removal and forfeiture of unauthorized sign in the public right-of-way. The city shall have the right to remove from the public right-of-way any sign which is erected, installed, or located in such public right-of-way and which does not conform to the requirements of this article. Such signs shall be deemed to have been forfeited to the city and the city shall have the right to dispose of such signs as it sees fit. In addition to other remedies, the city shall have the right to recover from the owner of such sign or the person responsible for placing the sign in the public right-of-way all costs associated with the removal or disposal of the sign.

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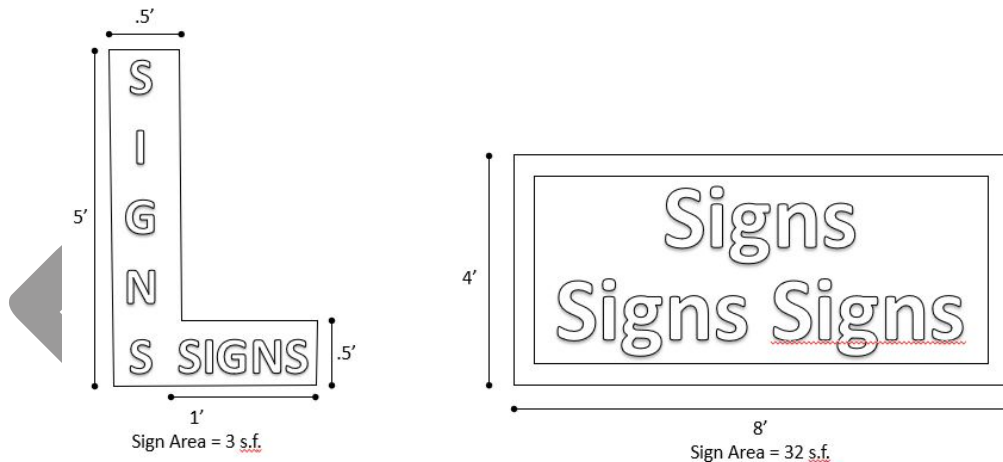
Section 7.2.3. Activities Exempt from Permitting

The following types of activities are exempt from the permitting requirements of this article:

- 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;
- B. Cleaning, painting, electrical, or comparable general maintenance or repair of a sign that does not alter any regulated feature of such sign; and
- C. Changing the message or locating official public notices or traffic control signs.

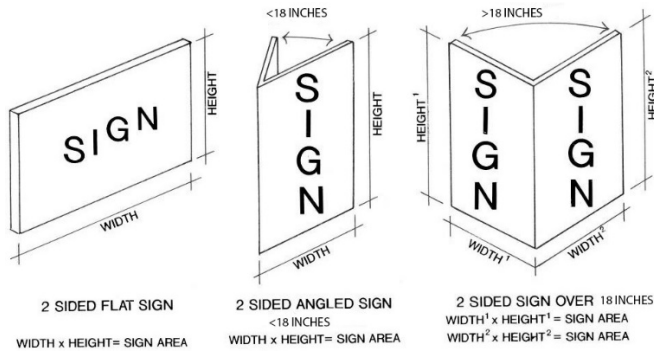
Section 7.2.4. Requirements Applicable to All Signs

- 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.

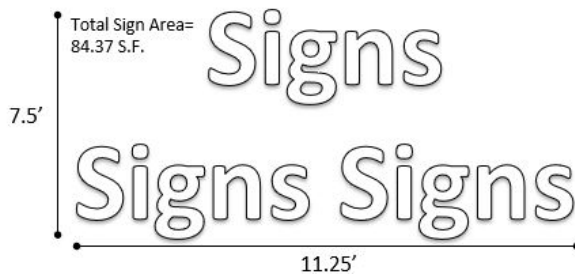


- 1. The area of a multi-faced sign shall be computed on one face in the same manner as the sign area of an individual sign, provided that the faces of the sign are not separated at any point by more than 18 inches. If the faces of a multi-faced sign are separated at any point by more than 18 inches, 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.



- 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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banner, sign, flag, or flagpole shall be hung, attached, or erected in any manner as to project into the right-of-way.

4. Freestanding signs are prohibited in the 6' perimeter utility easement.

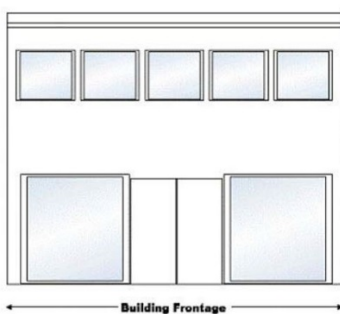
- D. Illumination. Signs may be illuminated by any method not prohibited by this article provided that any light source shall be shielded in such a manner as to prevent direct rays of light from being cast into an occupied residence, hotel or motel room, a commercial business, at any pedestrian traveling upon a street or sidewalk, or any vehicle traveling upon a public street.

Section 7.2.5. Maximum Total Sign Area Per Site

- A. Residential uses in residential zoning districts. Except for signs identified as permitted, no signs are allowed on sites containing residential uses in residential zoning districts. Any sign on a residential site in a residential zoning district shall comply with the provisions for such sign(s).
- B. Non-residential uses in all zoning districts. Except as otherwise provided in this chapter, the number of building signs located on property lawfully used for non-residential purposes shall not be limited so long as the cumulative total sign area (in square feet) of all such signs, except exempt signs, does not exceed the building sign allowance for the property. The allowable building sign area (in square feet) of all signs, except exempt signs, erected, installed, or located on a site lawfully containing a non-residential use in any zoning district shall be computed as follows:

1. Building mounted signs.

- a. If a building contains more than one floor or story, the dimension of the primary side of the building shall be determined by measuring (in linear feet) the overall width of the first floor or story of the building on the side that faces the front lot line and 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.



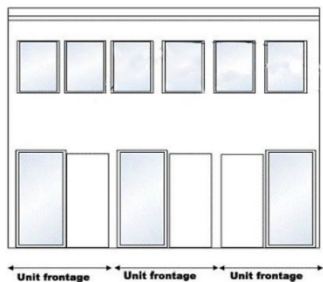
Structural Building Frontage Single Unit

- 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

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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

- 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:

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		

- 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:

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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.

413 C. Freestanding signs.

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415 1. Individual business or entity sites.

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- 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.			

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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- 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.			

Section 7.2.6. Sign Permits

- A. Required. Except as otherwise required, no sign shall be located, placed, erected, constructed, altered, extended, or displayed without first obtaining a sign permit and meeting all requirements of the Florida Building Code. In the event a sign is located, installed, or maintained upon real property without any required permits, after the expiration or lapse of a sign permit, after the closure of a business, or otherwise in violation of the requirements of this article, the owner of the real property shall be deemed to be responsible for the prompt removal of such sign and shall be responsible for and subject to all fines or penalties which shall result from such violation.
- B. Procedure. The procedure for obtaining a sign permit shall in conformance with application 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(s) adjacent to all public rights-of-way, such as streets, alleys, or 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 placed, 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. Certain deviations to the requirements of this article are authorized pursuant to Section
533 7.2.8. No other deviations are permitted.
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.

- 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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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 February 1, 2019 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, Hearing Examiner, 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.
- B. Requests for deviations shall be initiated by the applicant in the application for a sign permit and shall be accompanied by documentation including sample detail drawings, schematic architectural drawings, site 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. Deviations listed in Sec. 7.2.8.A may be approved by the Director provided that such deviation will not be contrary to the public interest and in harmony with the general intent and purpose of this article and where one or both of the following criteria are satisfied:
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

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2. There is something unique about the building or site configuration that would cause the signage permitted by this article to be ineffective in identifying a use or structure that would otherwise be entitled to a sign.

- C. Subject to the standards and criteria stated above, the Director shall approve only the minimum deviation from the provisions of this article necessary to avoid the undue hardship or to cause the signage for the site to be effective in identifying the use or structure on the site. However, no deviation shall be approved that would have the effect of allowing a type or category of sign that would otherwise be prohibited by this article.

- D. Any person aggrieved by the decision of the Director concerning a deviation may apply for a variance.

Section 7.2.9. Maintenance of Signs.

A. Maintenance Required.

It is unlawful for any owner of record, lessor, lessee, manager, or other person having lawful possession or control over a building, structure, or parcel of land to fail to maintain any signs on the building, structure, or parcel in compliance with this chapter. Failure to maintain a sign constitutes a violation of this chapter and shall be subject to enforcement under the enforcement provisions of Chapter 1.6.

All signs, if in existence prior to adoption of this chapter, shall be maintained and kept in good repair and in a safe condition. Maintenance of a sign shall include periodic cleaning, replacement of flickering, burned out or broken light bulbs or fixtures, repair or replacement of any faded, peeled, cracked, or otherwise damaged or broken parts of a sign, and any other activity necessary to restore the sign so that it continues to comply with the requirements and contents of the sign permit issued for its installation, if required, and the provisions of this chapter.

B. Removal.

1. Every person maintaining a sign must, upon vacating the premises where a sign is maintained, remove or cause to be removed the sign within 180 days from the date of vacating the premises. When the Director determines that the sign has not been removed within the required period, the Director shall remedy and enforce said violation in accordance with the enforcement provisions of this chapter.
2. Any vacant or unused sign support structures, angle irons, sign poles, or other remnants of old signs which are currently not in use or are not proposed for immediate reuse by a sign permit application for a permitted sign, shall be removed.
3. The Director shall have the authority to require the repair, maintenance, or removal of any sign or sign structure which has become dilapidated or represents a hazard to the safety, health, or welfare of the public, at the cost of the sign or property owner.

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4. Any sign posted in violation of this chapter on public property or on public rights-of-way shall be subject to summary removal by the City.
5. Any person responsible for any sign posting made in violation of this chapter shall be liable to the City for the costs incurred by the City in removal thereof and, in event of failure to pay, for billing and collection charges, including interest and reasonable attorneys' fees.

Chapter 7.3 Temporary Signs.

- A. Temporary signs, identified in this chapter as not requiring a sign permit, unless indicated below, must otherwise meet all the applicable requirements of this section and this article. Any temporary sign not meeting these requirements, in any way, including quantity, shall be treated as a non-exempt sign subject to permitting. The area of temporary signs displayed on a site shall not be included in the calculation of the total signs on such site.

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.

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 on unimproved property or with events

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	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 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 30 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 may display 4 feather banners and 1 banner on the model home site. Corner-lot model home sites shall be allowed 4 feather banners with no more than 2 per side. For 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		
Applicable Zoning District/Use	All districts, based on size	
Size	2 feet or less in width, diameter, and height	More than 2 feet in width, diameter, or height
Sign Permit Required	No	Yes

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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	Maximum 10-day duration. No more than four times in one year; minimum 30 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 10 consecutive days. 6. On multiple business or entity sites, each use 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 signs 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 sq. ft.	16 sq. ft.
Maximum Sign Height for a Temporary Freestanding Sign	5 ft.	5 ft.
Maximum Sign Height for a Temporary Wall Sign	15 ft.	15 ft.
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	No	No

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Property Owners Approval		
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 and no more than four non-events in one year on the same site. Minimum 30 days between each non-event.	

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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 per Street Frontage not to exceed 2		
	Area (Max Sq. Ft.)	16 sq. ft. per sign		
	Height	10		
	Permit Required	No		
Multi-Family Greater Than 7 Units in RMM and RML	Maximum Number	1 per Street Frontage not to exceed 2		
	Area (Max Sq. Ft.)	24 sq. ft. per sign		
	Height	10		
	Permit Required	No		
Directional Signs	Maximum Number	1		A permanent directional sign may 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 on the site. Flags bearing an incidental sign
	Area (Max Sq. Ft.)	N/A		
	Height	N/A		
	Permit Required	No		

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			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 sq. ft.	
	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, 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 sq. ft.	
	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	Hand held signs or signs worn as part of a costume or item of clothing that do not
	Area	N/A	

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	Height	N/A	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.
	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	

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 sq. ft.	
	Height	N/A	
	Permit Required	No	

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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 on private or commonly owned property and shall be set back a minimum of 15 feet from the edge of the entranceway pavement. A development sign may incorporate or be incorporated into landscaping, or into accessory entrance structural features including fountains or walls.</p> <p>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.</p>
	Area (Max Sq. Ft.)	32 sq. ft.	
	Height	10 Ft.	
	Permit Required	Yes	

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Directional Signs	Maximum Number	1	A permanent directional sign may be 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	
	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	

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	Area (Max Sq. Ft.)	6 sq. ft.	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, 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.
	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	
	Height	N/A	
	Permit Required	No	
Menu Board(s)/Pre-Sale Board(s)	Maximum Number	Menu Board 1 per drive-through	

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		Pre-Sale Board 1 per 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 sq. ft.	
	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	
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

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			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.	<p>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 or door sign(s) or.</p> <p>If a window or door sign(s) 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 or door sign(s) are located, the window or door sign(s) are no longer exempt.</p> <p>Any window or door sign(s) above the first floor of a building shall not be deemed an exempt sign and shall require a permit.</p>
	Area	See Other Regulations.	
	Height	N/A	
	Permit Required	No	

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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.

Sites 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.

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Chapter 1. GENERAL APPLICABILITY

Section 8.1.1. Purpose.

The purpose of this Article is to provide for the continuation, modification, or elimination of nonconforming uses, structures, and signs in accordance with the standards and conditions in this Article. While nonconformities may continue, the provisions of this Article are designed to encourage the improvement or elimination of nonconformities in order to better achieve the purposes of these regulations.

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Section 8.1.2. Definitions.

The terms “Nonconforming,” “Nonconforming, Legally,” “Nonconforming Lots of Record,” “Nonconforming Sign,” “Nonconforming Structure,” and “Nonconforming Use” are defined in Article 11 of this Code and are incorporated by reference for purposes of applying the standards and requirements of this Article.

Chapter 2. NONCONFORMING LOTS OF RECORD

Section 8.2.1. General.

The majority of the City was platted in the Cape Coral Subdivision (Units 1 – 98) with 5,000 square foot lots, with two adjoining lots combined as a 10,000-square foot “Parcel” to construct a single-family residence. A 10,000-square foot parcel is the minimum lot size required for subdivision or development of a single-family residence or a two-family dwelling (LDC Article 4. Section 4.3 Zoning District Development Standards). Platted lots with less than 5,000 square feet and parcels less than 10,000 square feet are defined as nonconforming lots of record or parcels, respectively.

Section 8.2.2 Residential development on nonconforming lots of record.

Residential development on nonconforming lots of record may be permitted subject to the following requirements:

- A. Development of single-family residences under this provision is limited to the R-1 and RML zoning districts.
- B. Development of single-family residences defined as “Micro cottages” may be permitted on lots of record in the RML zoning district provided such lots are 5,000 square feet or more in area.
- C. Development of two-family residences under this provision is limited to the RML zoning district.
- D. Development of single-family or two-family residences is permitted on nonconforming lots of record and parcels less than 10,000 square feet in area, without a variance, provided that:
 1. Such lots or parcels are larger than 7,500 square feet in area; and
 2. The proposed development meets all requirements of this Code for setbacks, maximum building height, and off street parking.
- E. The nonconforming lots of record or parcels less than 10,000 square feet in area have not been subdivided or their boundaries altered through the “lot split and combine” process.

Chapter 3. NONCONFORMING STRUCTURES

Section 8.3.1. Continuation of nonconforming structures.

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Except as may be provided for elsewhere in these regulations, a non-conforming structure may be continued subject to the standards and conditions of this Chapter.

Section 8.3.2. Destruction of nonconforming structures.

A. Except for residential structures as identified in subsection B, below, a nonconforming structure that is damaged or destroyed to an extent exceeding 50 percent of the fair market value of the structure and improvements at the time of its destruction, shall not be reconstructed except in conformity with these regulations.

B. Nonconforming residential structures (including accessory structures) in residential zoning districts may be reconstructed if damaged or destroyed to any extent, (less than 50%) if such reconstruction does not increase the extent of the nonconformity(ies) existing prior to destruction and the footprint of the structure is not enlarged or changed.

Section 8.3.3. Alterations to nonconforming structures.

A structure that is nonconforming in any way, shall not be altered or enlarged in a way that increases the extent of any nonconformity. Normal maintenance and repair is permitted. Alterations and additions which do not increase the nonconformity may be permitted.

Chapter 4. NONCONFORMING SIGNS

Section 8.4.1. Requirements for nonconforming signs.

All signs with approved sign permits but which are not in conformance with the sign requirements of Article 7, may continue as nonconforming signs, subject to the standards and conditions of Article 7.

Chapter 5. NONCONFORMING USES

Section 8.5.1. Continuation of nonconforming uses.

Except as may be provided for elsewhere in these regulations, a non-conforming use may be continued subject to the standards and conditions of this Chapter.

Section 8.5.2. Extension or expansion of nonconforming use.

A nonconforming use shall not be enlarged or expanded, except for nonconformities created by amendments to the comprehensive plan, as described in Chapter 6 of this Article.

Section 8.5.3. - Discontinuance of nonconforming use.

Whenever a nonconforming use of property has been discontinued for a period of one year or more, such non-conforming use shall not thereafter be re-established, and the future use of the property shall be in conformity with the provisions of these regulations.

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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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or an active application for a building permit to construct the dwelling was pending with or issued by the city. This exception applies only when the effect of a Comprehensive Plan amendment would render the principal single-family or duplex dwelling structure becoming non-conforming as the result of an amendment, and does not apply when the effect of an amendment would render accessory structures including sheds and gazebos, non-conforming while the principal dwelling remains conforming. This exception does not apply either to conjoined residential dwellings or to multi-family residential dwellings, regardless of number.

- C. In the event the property owner who owned the real property containing the single- family or duplex dwelling use at the time the Comprehensive Plan amendment was adopted conveys or otherwise transfers ownership of the real property, subsequent to the adoption of the amendment, to another person or entity, then this exception shall terminate and the dwelling shall be subject to the limitations identified by Chapters 4 and 5 of this Article, that apply to non-conforming structures generally and, prior to the conveyance or other transfer of property ownership, the property owner shall notify in writing the person or entity to whom ownership is being transferred of the change in the status of the property. The failure of a property owner to provide notice as required herein of the change in the status of the property shall not affect the change in the status of the property.

Chapter 7. EMINENT DOMAIN.

Section 8.7.1. Nonconformities created by eminent domain.

Any structure, use, or lot made nonconforming as a direct result of eminent domain proceedings instituted by the City of Cape Coral or other condemning authority, or through a voluntary conveyance by such lot owner in lieu of formal eminent domain proceedings, which lot or parcel, except for such eminent domain or voluntary conveyance, would be an otherwise conforming lot or parcel, shall be deemed to be a conforming lot or parcel for all purposes under the City of Cape Coral Land Development Code, without the necessity for a variance from any land development ordinance. This subsection shall not apply to any lot or parcel which is reduced in size by more than 25 percent by such action.

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CHAPTER 1: ADMINISTRATION

Section 9.1.1. Title.

These regulations shall be known as the Floodplain Management Ordinance of the City of Cape Coral.

Section 9.1.2. Scope.

The provisions of this Article shall apply to all development that is wholly within or partially within any flood hazard area, including the subdivision of land; filling, grading, other site improvements, and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation, or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other action or activity defined as development.

Section 9.1.3. Purpose and Intent.

The purposes of this Article and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- A. Minimize unnecessary disruption of commerce, access, and public service during times of flooding;
- B. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- C. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- D. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- E. Minimize damage to public and private facilities and utilities;
- F. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- G. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- H. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

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Section 9.1.4. Coordination with the Florida Building Code.

This Article is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

Section 9.1.5. Warning.

The degree of flood protection required by this Article and the Florida Building Code is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside of mapped special flood hazard areas or that uses permitted within such flood hazard areas will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this city to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this Article.

Section 9.1.6. Disclaimer of liability.

This Article shall not create liability on the part of the City of Cape Coral or by any officer or employee thereof for any flood damage that results from reliance on this Article or any administrative decision lawfully made thereunder.

Section 9.1.7. Applicability.

- A. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- B. This Article shall apply to all development in flood hazard areas within the City of Cape Coral, as established in § 9.1.8. of this Article.

Section 9.1.8. Basis for establishing flood hazard areas.

The Flood Insurance Study for Lee County, FL and Incorporated Areas dated August 28, 2008, the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions are adopted by reference as a part of this Article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City Clerk's office, City of Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.

Section 9.1.9. Submission of additional data to establish flood hazard areas.

To establish flood hazard areas and base flood elevations pursuant to § 9.1.8 of this Article, the Floodplain Administrator may require submission of additional data. Additional data may be required where field surveyed topography prepared by a Florida licensed professional surveyor or digital

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topography accepted by the city indicates that ground elevations:

- A. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this Article and, as applicable, the requirements of the Florida Building Code: or
- B. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

Section 9.1.10. Other laws.

The provisions of this Article shall not be deemed to nullify any provisions of local state or federal law.

Section 9.1.11. Abrogation and greater restrictions.

This Article supersedes any regulation in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing regulations, including land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this Article and any other regulation, the more restrictive shall govern. This Article shall not impair any deed restriction, covenant, or easement but any land that is subject to such interests shall also be governed by this Article.

Section 9.1.12. Interpretation.

In the interpretation and application of this Article, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

CHAPTER 2. DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR.

Section 9.2.1. Designation.

The Director of the Department of Community Development is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

Section 9.2.2. General.

The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this Article. The Floodplain Administrator shall have the authority to render interpretations of this Article consistent with the intent and purpose of this Article and may establish policies and procedures in order

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to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this Article without the granting of a variance pursuant to § 9.6.1. of this Article.

Section 9.2.3. Applications and permits.

The Floodplain Administrator, in coordination with other pertinent offices of the city, shall:

- A. Review applications and plans to determine whether proposed new development will be located in flood hazard areas.
- B. Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this Article.
- C. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation.
- D. Provide available flood elevation and flood hazard information.
- E. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant.
- F. Review applications to determine whether proposed development will be reasonably safe from flooding.
- G. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures, and facilities exempt from the Florida Building Code, when compliance with this Article is demonstrated, or disapprove the same in the event of noncompliance.
- H. Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this Article.

Section 9.2.4. Substantial improvement and substantial damage determinations.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- A. Estimate the market value or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or

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structure shall be the market value before the damage occurred and before any repairs are made.

- B. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure.
- C. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of substantial improvement.
- D. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this Article is required.

Section 9.2.5. Modifications of the strict application of the requirements of the Florida Building Code.

The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to § 9.6.1. of this Article.

Section 9.2.6. Notices and orders.

The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this Article.

Section 9.2.7. Inspections.

The Floodplain Administrator shall make the required inspections as specified in this Article for development that is not subject to the Florida Building Code, including buildings, structures, and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

Section 9.2.8. Other duties of the Floodplain Administrator.

The Floodplain Administrator shall have other duties, including:

- A. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to § 9.2.4. of this Article.
- B. Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
- C. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit

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applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available.

- D. Review required design certifications and documentation of elevations specified by this Article and the Florida Building Code and this Article to determine that such certifications and documentations are complete.
- E. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Cape Coral are modified.
- F. Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."

Section 9.2.9 Floodplain management records.

Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this Article and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this Article; notifications to adjacent communities, FEMA and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this Article and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at the City Clerk's office, City of Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.

CHAPTER 3. PERMITS

Section 9.3.1. Permits required.

Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this Article, including buildings, structures, and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator and the Building Official, if applicable, and shall obtain the required permit(s) and approvals). No such permit or approval shall be issued until compliance with the requirements of this Article and all other applicable codes and regulations has been 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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- B. Describe the land on which the proposed development is to be conducted by legal description, street address, or similar description that will readily identify and definitively locate the site.
- C. Indicate the use and occupancy for which the proposed development is intended.
- D. Be accompanied by a site plan or construction documents as specified in § 9.4 of this Article.
- E. State the valuation of the proposed work.
- F. Be signed by the applicant or the applicant's authorized agent.
- G. Give such other data and information as required by the Floodplain Administrator.

Section 9.3.5. Validity of permit or approval.

The issuance of a floodplain development permit or approval pursuant to this Article shall not be construed to be a permit for, or approval of, any violation of this Article, the Florida Building Codes, or any other regulation of the City of Cape Coral. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

Section 9.3.6. Expiration.

A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

Section 9.3.7. Suspension or revocation.

The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error; on the basis of incorrect, inaccurate, or incomplete information; or in violation of this Article or any other regulation or requirement of the City of Cape Coral.

Section 9.3.8. Other permits required.

Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including the following:

- A. The South Florida Water Management District; F.S. § 373.036.
- B. Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065 and Chapter 64E-6, F.A.C.

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- C. Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; F.S. § 161.141.
- D. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; F.S. § 161.055.
- E. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- F. Federal permits and approvals.

CHAPTER 4. SITE PLANS AND CONSTRUCTION DOCUMENTS.

Section 9.4.1. Information for development in flood hazard areas.

- A. The site plan or construction documents for any development subject to the requirements of this Article shall be drawn to scale and shall include, as applicable to the proposed development:
 - 1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development;
 - 2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with § 9.4.2.(B) or (C) of this Article;
 - 3. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than five acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with § 9.4.2.(A) of this Article;
 - 4. Location of the proposed activity, and structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide;
 - 5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation;
 - 6. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose;
 - 7. Delineation of the coastal construction control line or notation that the site is seaward of the coastal construction control line, if applicable;
 - 8. Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is

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approved by the Florida Department of Environmental Protection; and

9. Existing and proposed alignment of any proposed alteration of a watercourse.

- B. The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this Article but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this Article.

Section 9.4.2. Information in flood hazard areas without base flood elevations (approximate Zone A).

Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

- A. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
- B. Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
- C. Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
 2. Specify that the base flood elevation is two feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two feet; and
- D. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

Section 9.4.3. Additional analyses and certifications.

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

- A. For development activities in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in

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base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in § 9.4.4. of this Article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.

- B. For development activities in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one foot at any point within the City of Cape Coral. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
- C. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in § 9.4.4. of this Article.
- D. For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

Section 9.4.4. Submission of additional data.

When additional hydrologic, hydraulic, or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

CHAPTER 5. INSPECTIONS.

Section 9.5.1. General.

Development for which a floodplain development permit or approval is required shall be subject to inspection.

Section 9.5.2. Development other than buildings and structures.

The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this Article and the conditions of issued floodplain development permits or approvals.

Section 9.5.3. Buildings, structures and facilities exempt from the Florida Building Code.

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The Floodplain Administrator shall inspect buildings, structures, and facilities exempt from the Florida Building Code to determine compliance with the requirements of this Article and the conditions of issued floodplain development permits or approvals.

Section 9.5.4. Buildings, structures, and facilities exempt from the Florida Building Code, lowest floor inspection.

Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure, or facility exempt from the Florida Building Code shall submit to the Floodplain Administrator:

- A. If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
- B. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with § 9.4.2.(C)(2) of this Article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner.

Section 9.5.5. Buildings, structures, and facilities exempt from the Florida Building Code, final inspection.

As part of the final inspection, the owner shall submit a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in § 9.5.4. of this Article.

Section 9.5.6. Manufactured homes.

The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this Article and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted.

CHAPTER 6. VARIANCES AND APPEALS.

Section 9.6.1. Variances.

The Cape Coral Hearing Examiner shall hear and decide on requests for requests for variances from the strict application of this Article. Pursuant to F.S. § 553.73(5), the Cape Coral Hearing Examiner shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building.

Section 9.6.2. Appeals.

The Cape Coral Hearing Examiner shall hear and decide appeals when it is alleged there is an error in any

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requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this Article. Any person aggrieved by the decision of Cape Coral Hearing Examiner may appeal such decision to the Cape Coral City Council, as provided by Article 2 of the Land Development Code.

Section 9.6.3. Limitations on authority to grant variances.

The Cape Coral Hearing Examiner shall base his or her decisions on variances on technical justifications submitted by applicants, the considerations for issuance in § 9.6.7. of this Article, the conditions of issuance set forth in § 9.6.8. of this Article, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Cape Coral Hearing Examiner has the right to attach such conditions as deemed necessary to further the purposes and objectives of this Article.

Section 9.6.4. Restrictions in floodways.

A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in § 9.4.3. of this Article.

Section 9.6.5. Historic buildings.

A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

Section 9.6.6. Functionally dependent uses.

A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this Article, provided the variance meets the requirements of § 9.6.4., is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

Section 9.6.7. Considerations for issuance of variances.

In reviewing requests for variances, the Cape Coral Hearing Examiner shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this Article, and the following:

- A. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;

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- B. The danger to life and property due to flooding or erosion damage;
- C. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- D. The importance of the services provided by the proposed development to the City of Cape Coral;
- E. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- F. The compatibility of the proposed development with existing and anticipated development;
- G. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- H. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- I. The expected heights, velocity, duration, rate of rise, and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- J. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

Section 9.6.8. Conditions for issuance of variances.

Variances shall be issued only upon:

- A. Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this Article or the required elevation standards;
- B. Determination by the Cape Coral Hearing Examiner that:
 - 1. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements, or inconvenience do not constitute hardship;
 - 2. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws and ordinances; and
 - 3. The variance is the minimum necessary, considering the flood hazard, to afford relief;
- C. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the 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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parcel of land; and

- D. If the request is for a variance to allow construction of the lowest floor of a new building or substantial improvement of a building below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

Chapter 7. VIOLATIONS.

Section 9.7.1. Violations.

Any development that is not within the scope of the Florida Building Code but that is regulated by this Article that is performed without an issued permit, that is in conflict with an issued permit or that does not fully comply with this Article, shall be deemed a violation of this Article. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this Article or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

Section 9.7.2. Authority.

For development that is not within the scope of the Florida Building Code but regulated by this Article and determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

Section 9.7.3. Unlawful continuance.

Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

CHAPTER 8. FLOOD RESISTANT DEVELOPMENT

Section 9.8.1. Design and construction of buildings, structures, and facilities exempt from the Florida Building Code.

Pursuant to § 9.3.3. of this Article, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures, and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of § 9.8.14. of this Article.

Section 9.8.2. Buildings and structures seaward of the coastal construction control line.

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If extending, in whole or in part, seaward of the coastal construction control line and also, in whole or in part, in a flood hazard area:

- A. Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the Florida Building Code, Building Section 3109 and Section 1612 or Florida Building Code, Residential Section R322; and
- B. Minor structures and non-habitable major structures as defined in F.S. § 161.54, shall be designed and constructed to comply with the intent and applicable provisions of this Article and ASCE 24.

Section 9.8.3. Subdivision Minimum requirements.

Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

- A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
- C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

Section 9.8.4. Subdivision plats.

Where any portion of proposed subdivisions lies within a flood hazard area, the following shall be required:

- A. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
- B. Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with § 9.4.2. of this Article; and
- C. Compliance with the site improvement and utilities requirements of § 9.8.5., 9.8.6., 9.8.7., 9.8.8., 9.8.9., and 9.8.10. of this Article.

Section 9.8.5. Minimum requirements for site improvements, utilities, and limitations.

All proposed new development shall be reviewed to determine that:

- A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

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B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

Section 9.8.6. Sanitary sewage facilities.

All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

Section 9.8.7. Water supply facilities.

All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

Section 9.8.8. Limitations on sites in regulatory floodways.

No development, including site improvements and land disturbing activity involving fill or regrading shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in § 9.4.3. of this Article demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

Section 9.8.9. Limitations on placement of fill.

Subject to the limitations of this Article, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

Section 9.8.10. Limitations on sites in coastal high hazard areas (Zone V).

In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by § 9.4.3.(D) of this Article demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with § 9.8.14.(H) of this Article.

Section 9.8.11. Manufactured homes.

A. General. All manufactured homes installed in flood hazard areas shall be installed by an installer that

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is licensed pursuant to F.S. § 320.8249, and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this Article. If located seaward of the coastal construction control line, all manufactured homes shall comply with the more restrictive of the applicable requirements.

B. Foundations. All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:

1. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.2 and this Article; and

2. In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.3 and this Article.

C. Anchoring. All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring include use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

D. Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply with one of the following requirements, as applicable:

1. General elevation requirement. Unless subject to the requirements of § 9.8.11.D.2. of this Article, all manufactured homes that are placed, replaced, or substantially improved on sites: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V);

2. Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to § 9.8.11.D.1. of this Article, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

a. Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V); or

b. Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

E. Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements

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of the Florida Building Code, Residential Section R322 for such enclosed areas, as applicable to the flood hazard area.

- F. Utility equipment. Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall comply with the requirements of the Florida Building Code, Residential Section R322, as applicable to the flood hazard area.

Section 9.8.12. Recreational vehicles and park trailers.

- A. Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

1. Be on the site for fewer than 180 consecutive days; and
2. Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks, and porches.

- B. Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in § 9.8.12.A. of this Article for temporary placement shall meet the requirements of § 9.8.11. of this Article for manufactured homes.

Section 9.8.13. Tanks.

- A. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

- B. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of § 9.8.13.C. of this Article shall:

1. Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris; and

2. Not be permitted in coastal high hazard areas (Zone V).

- C. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

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D. Tank inlets and vents. Tank inlets, fill openings, outlets, and vents shall be:

1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

Section 9.8.14. Other development.

A. General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this Article or the Florida Building Code, shall:

1. Be located and constructed to minimize flood damage;
2. Meet the limitations of § 9.8.8. of this Article if located in a regulated floodway;
3. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
4. Be constructed of flood damage- resistant materials; and
5. Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

B. Fences in regulated floodways. Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of § 9.8.8. of this Article.

C. Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 9.8.8. of this Article.

D. Roads and watercourse crossings in regulated floodways. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways, shall meet the limitations of § 9.8.8. of this Article. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of § 9.4.3.C. of this Article.

E. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios, and similar nonstructural uses in coastal high hazard areas (Zone V).

In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks,

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walkways, patios, and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

1. Structurally independent of the foundation system of the building or structure;
2. Frangible and not reinforced, to minimize debris during flooding that is capable of causing significant damage to any structure; and
3. Have a maximum slab thickness of not more than four inches.

F. Decks and patios in coastal high hazard areas (Zone V). In addition to the requirements of the Florida Building Code, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:

1. A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck;
2. A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures;
3. A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures; and
4. A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

G. Other development in coastal high hazard areas (Zone V).

In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state, or local authority; if located outside the footprint of and not structurally attached to buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

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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
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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

**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

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of the subdivision development process. The Preliminary Subdivision Plan depicts the proposed subdivision layout and preliminary design of the proposed improvements in sufficient detail in order that it may be evaluated and granted preliminary approval pursuant to this Code.

B. Review Process.

1. Applications for a Preliminary Subdivision Plan approval are reviewed in the same manner as administrative approvals, as established in Article 3 of this Code.

2. All applications must be prepared by a Florida registered professional engineer and shall be submitted on forms provided by the Director.

C. Expiration. The PSP approval shall expire and be of no further force and effect if a completed application for SCP approval is not filed within two years of PSP approval. After expiration of two years, the applicant will be required to re-submit the PSP for review and approval as set forth in this Article. Applicants may apply for an extension prior to the expiration date. The applicant shall demonstrate good cause for the extension. The Community Development Director may extend the approval period up to twelve (12) months if the applicant has progressed in good faith toward the implementation of the subdivision. Subdivisions approved in conjunction with a PUD shall be governed by the Master Concept Plan (MCP)(and any, phasing, conditions, or requirements of the PUD.

Section 10.1.5 Subdivision Construction Plan Approval.

A. Application required. The applicant shall submit Subdivision Construction Plans for the required subdivision improvements in compliance with the PSP approval or a PUD MCP. No construction shall commence until the applicant has received requisite design approvals, permits, and complied with applicable provisions of this article.

B. Timing. Applications for SCP approval must be submitted within two years of City approval of the PSP. Applications for approval of subsequent phases, if any, shall occur within twelve (12) months of the issuance of a certification of completion of the previous phase. Failure to submit for SCP approval within a specified amount of time shall require reapplication under the PSP requirements of this Article. Applicants may not apply for SCP approval for any portion of the subdivision that is not to be constructed within the following twelve (24) months. Failure to make application for SCP approval within required time periods may result in revocation of a Preliminary Subdivision Plan, unless the applicant has applied for an extension from the Community Development Director prior to the lapse. The request for the extension must be made prior to the expiration date. The applicant shall demonstrate good cause for the extension. The Community Development Director may extend the prescribed time period up to twelve (12) months if the applicant has progressed in good faith toward the implementation of the PSP.

C. Review Process. Application review and approval follows the administrative review procedure as established in Sections 3.1.4 through 3.1.8 of Article 3. Specifically, SCP's are reviewed in accordance with Section 3.3.7.

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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 Manager 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**

I. Applicant's failure to complete required improvements.

1. Failure of applicant to complete required improvements. When a plat has been recorded and the applicant fails to complete the required improvements as required by this article, the City shall require the completion of the required improvements under the financial assurance provided by the Developer. In such case, the City shall call upon the financial surety to secure satisfactory completion of the required improvements. Legal notice of such action shall be deemed to have been duly served upon demand of the Director via certified mail return receipt requested.
2. In cases where plat has not been recorded. Where an applicant has elected to install the required improvements prior to recording of the plat and fails to complete such improvements within the time limitations of this article, all approvals of the subdivision shall be null and void. No reference shall be made to the plat with respect to the sale of lots or issuance of building permits, unless and until the Developer submits a new application for SCP and Plat approval.

Section 10.1.6 Plat Approval.

- A. Plat approval procedures. Plats must be prepared in accordance with Chapter 177 Part 1 of the Florida Statutes, and the City of Cape Coral Technical Requirements for Plat Approval, which are hereby incorporated by reference. The preliminary plat must be submitted during the SCP review. SCP approval will not be granted prior to approval of the preliminary plat. The Final Plat shall incorporate all changes or modifications resulting from the review of the SCP and any remaining conditions or requirements of the PSP or MCP approval.
- B. Review Process. Application review and approval follows the administrative review procedure as established in Article 3 of this Code.
- C. Supplemental information required for plat review.
 1. Operation and maintenance covenants. Where applicable, a copy of the covenants used for the maintenance and operation of the infrastructure improvements required by this Code including private streets and adjacent drainage, drainage and storm water management systems, utilities, public water and sewage systems, on-site bikeways, on-site pedestrian ways, open space, parks, recreation areas, and buffers. These documents must meet the criteria set forth in the City of Cape Coral Technical Requirements for Plat Approval.
 2. Articles of incorporation and bylaws or other legal documents for assignment of maintenance. The developer must submit a copy of the legal documents creating the legal mechanism to ensure that the drainage system, on-site bikeways, on-site pedestrian ways, roadways and rights-of-way are continuously maintained. These documents must meet the requirements set forth in the City of Cape Coral Technical Requirements for Plat Approval.
- D. After the final plat has been approved and certified by the Community Development Director, the City Surveyor, and the City Attorney that it complies with all applicable requirements of this Code, the Director shall schedule the Plat for acceptance by City Council. The plat will be scheduled as a consent agenda item on an upcoming City Council meeting. Upon City Council approval and acceptance of the

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plat, the Mayor and City Clerk shall indicate such approval on the final plat by signing the certificate of approval for recording. The Director will notify the developer when the approved Plat has been signed and ready for recording.

E. Revisions after final plat approval by City Council and prior to recordation.

1. Recording information for the property or home owner's association documents may be added to the plat at the time of recording of the documents.

2. Any other changes, erasures, modifications, or revisions to an approved plat prior to recordation may only be made by the Community Development Director to correct scrivener's errors. No such request shall be considered unless made by the preparer of the plat.

3. No other changes, erasures, modifications, or revisions may be made to an approved final plat prior to recordation unless a new application and fee are submitted for review and approval.

F. Approval of the Plat by the City shall not constitute acceptance by the City of the dedication of any public street, other public way, easement, or improvement or the responsibility to construct or maintain any improvements unless so indicated in the dedication on the plat.

G. Recording. The approved plat shall be recorded with Lee County Clerk of Circuit Court within twenty (20) days of receiving the approved plat from the City. After recordation of the plat, the developer shall provide to the Community Development Director a full size certified copy of the recorded plat.

H. Building permits. No building permits for residential or residential accessory structures shall be issued until the final plat has been recorded and all subdivision improvements have either been completed or sufficient assurance of completion has been reviewed and approved by the City Attorney.

I. Phasing. The applicant may construct the proposed development and record plats for any phase approved on the PSP or MCP. The phases shall have been specified on the approved Preliminary Subdivision Plan and shall be of such a size and design that all phases completed at any time can exist independently as a subdivision in complete conformity with the requirements of this article. Any change in the sequence of phases must receive prior approval by the Development Services Manager. If PSP or MCP is phased, the applicant shall have the option of platting one or more of the development phases in a single plat in conformity with all the procedures and requirements of this article.

Section 10.1.7 Minimum Design Standards.

A. Monumentation. Monuments must be installed in accordance with F.S. Ch. 177.091(9).

1. Permanent reference monuments. Permanent reference monuments (PRMs) must be placed on the boundary of all subdivisions as required by F.S. Ch. 177, as amended, and approved by a licensed, registered state professional surveyor and mapper.

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2. Monuments must be set in the ground so that the top is flush or no more than one-half foot below the existing ground. Subsurface PRMs must be exposed for inspection when a plat is submitted for review. If development of the subdivision occurs after a plat is reviewed, the PRMs must be raised or lowered to be flush or no more than one-half foot below the finished ground. Subsurface PRMs must be exposed for inspection at the time of final inspection of the development.

B. Permanent control points. Permanent control points (PCPs) must be installed in accordance with F.S. Ch. 177. When a plat is recorded prior to construction of the subdivision improvements, the PCPs must be set following completion of construction. The surveyor must certify that the PCPs have been set and must record the certification in the official record books of the County.

C. Streets.

1. The widths and locations of all public or private streets in a proposed subdivision shall Conform to the City of Cape Coral Engineering Design Standards.

2. Street extensions.

a. The street layout of the proposed subdivision shall provide for the continuation or projection of streets already existing in areas adjacent to the area being subdivided unless such continuation or extension is for specific reasons of topography or design.

b. Where it is necessary for public safety to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of such properties. Where it is determined necessary for public safety, dead-end streets shall be provided with a temporary turnaround having a radius as specified in the City of Cape Coral Engineering Design Standards.

c. The street system for the proposed subdivision shall provide for extending existing streets at the same or greater width, but in no case, shall a street extension be of less width than the minimum width required by the City of Cape Coral Engineering Design Standards for a street in its category.

3. Dedication of right-of-way for new streets.

a. The dedication of rights-of-way for new streets, measured from lot line to lot line, shall meet the standards specified in the City of Cape Coral Engineering Design Standards.

b. Dedication of one-half of the rights-of-way for proposed streets along the boundaries of land proposed for subdivision shall be prohibited.

4. Dedication of right-of-way for existing streets.

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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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2. Dimension and area regulations. Dimension and area regulations for all lots proposed within the subdivision, including the size, shape, width, depth, area, building setback lines, corner lot regulations, yard requirements, off-street parking areas, and minimum lot frontage on public streets shall comply with the zoning district requirements in which the proposed subdivision is located.

F. Utility and drainage easements.

1. Utility planning and coordination. To ensure that adequate and properly designed utility easements are provided, developers shall consult with City staff and other appropriate personnel of public utility authorities providing gas, electricity, telephone, water, sewer, or other services of a similar nature before and during the planning and preparation of a Preliminary Subdivision Plan.
2. Width and location. A 10' public utility easement shall be provided across the front of all lots or parcels and shall be provided along each side of any street right of way or access easement. Where necessary or advisable in the opinion of the City, similar easements shall be provided alongside lot lines or across lots. Easement design should provide clear and orderly alignments from one block to the next and from one development to the next. The easement system should be continuous and well aligned to permit the efficient installation of utility service lines.
3. Underground wiring and installation. Developers shall contact overhead public utility authorities in the early stages of subdivision planning to determine the procedures for negotiating contracts for all underground utility service.
4. Storm drainage. Drainage easements shall be sized appropriately for the installation and maintenance of drainage improvements necessary for proper drainage within or through a subdivision.

G. Street lights. As established in the City of Cape Coral Engineering Design Standards.

**CITY OF CAPE CORAL, FLORIDA
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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, 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 Kennel, is an 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.

~~**ANTIQUÉ 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.

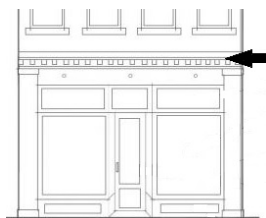


(Ord. 101-03, 10-20-2003)

~~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. (Ord. 30-14, § 2, 10-20-2014; Ord. 36-15, § 4, 8-31-2015)

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 an 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.

~~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, , or property of any kind. This definition 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.

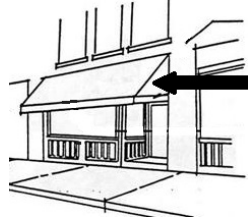
Campground, is an area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar movable or temporary sleeping quarters of any kind. A campground shall not be considered an RV Resort as defined in this article.

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.~~

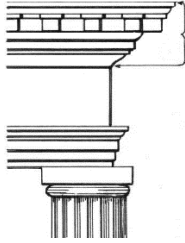
Convenience Store, is any retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood, with or without sale of fuel.

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.



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.

Cupola. 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-thru Facility, an accessory building or a building design feature that allows customer to receive goods or services from a business or establishment without leaving their vehicle.

~~**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.

5.
~~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 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.

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 Semi-Detached, shall mean a single-family dwelling which is joined to no more than one other single-family dwelling unit by a common wall, where such two dwelling units are also constructed on adjoining individual lots, such as duplex dwellings which have been subdivided into two single-family semi-detached dwelling units, with each such unit on a separate lot.

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.

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.

~~**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.

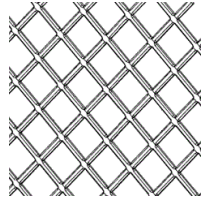
Landscaped Area, is an area set aside from structures and parking which is developed with natural materials (i.e. grass, trees, shrubs, vines, hedges, bedding plants, rock) and decorative features, including paving materials, walls, fences, and outdoor furniture.

~~**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.

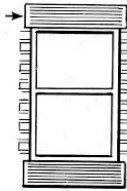
Light Van, is any motor vehicle having a generally rectangular bulk, which is licensed and registered for operation upon public highways and which has a carrying capacity of no more than one ton or no more than nine passengers.

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 emissions 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~~

1771 reducing or body contouring, or all or any one or more of the following subjects and methods of
1772 treatment, viz.: oil rubs, salt glows, hot or cold packs, all kinds of baths including steam rooms,
1773 cabinet baths, sitz baths; irrigations, body massage either by hand or by any mechanical or
1774 electrical apparatus or device excluding fever therapy, the application of such movements as
1775 stroking, friction, rolling, vibration, kneading, cupping, petrissage, rubbing, effleurage,
1776 tapotement. **MASSAGE PARLORS** shall be licensed by the state's Department of Professional
1777 Regulations.

1778
1779 **MASSING.** The apparent bulk or structural volume of a building as measured by its height,
1780 width, and depth.
1781 (Ord. 84-07, 5-12-2008)
1782

1783 **Mean Water Level**, in regard to fresh water waterways, is the elevation established at the
1784 downstream weir, and, in regard to saltwater waterways, the mean high water of +013 feet National
1785 Geodetic Vertical Datum of 1929 (NGVD-29).

1786
1787 **MEDICAL OFFICES AND MEDICAL CLINICS.** A premises where patients, who are not lodged
1788 overnight except for observation or emergency treatment, are treated by one person or group of
1789 persons practicing any form of healing or health building services to individuals, whether such
1790 persons are medical doctors, chiropractors, osteopaths, chiropodists, podiatrists, naturopaths,
1791 dentists, counselors of all sorts, psychiatrists, clinical psychologists, nurse practitioners,
1792 ophthalmologists, or any such profession, the practice of which is regulated by the State of Florida,
1793 Department of Professional Regulation. Ancillary uses such as pharmacies, eye wear centers, and
1794 the like may also be located on the premises.
1795

1796 **Medical Marijuana Dispensary**, is a facility where marijuana is made available for sale for medical
1797 purposes. This also includes establishments from which marijuana is delivered to patients who cannot
1798 obtain it from a dispensary, due to physical or mental disability, for medical purposes.

1799
1800 **MINI-WAREHOUSE.** Any building designed or used to provide separate storage rooms to
1801 individuals or businesses for a fee or rental, said rooms being intended solely as dead storage
1802 depositories for personal property, inventory, and equipment, and not for any other commercial or
1803 industrial use. (See **WAREHOUSE, PUBLIC** and **STORAGE, DEAD**.)

1804
1805 **Mini-Storage**, See Self-Storage Facility.

1806 **Mixed-Use Development**, is a project which integrates residential and non-residential uses.

1807
1808 **Mixed-Use Building**, is a building containing residential and non-residential uses permitted in the zoning
1809 district.

1810
1811 **Mixed-Use Zoning Districts**, includes the following zoning districts: Commercial Corridor (CC),
1812 Neighborhood Commercial (NC), Mixed Use (MX), Mixed Use Seven Islands (MX7), Mixed Use Bimini
1813 (MXB), South Cape (SC), and Planned Unit Developments (PUD).

1814
1815 **MODEL HOME SITE.** A residential structure used only for demonstration, display or sales of
1816 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. An open bed truck, van, or converted automobile is not considered a mobile food unit. Also commonly known as a “food truck”.

Mobile Food Vendor, 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](#), 5-3-2017)~~

~~**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)~~

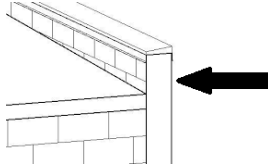
Owner, when used in relation to a motor vehicle or trailer, any person to whom a motor vehicle or trailer is registered according to the certificate of title for the motor vehicle or trailer and, if the motor vehicle or trailer is under lease, rental agreement, or on loan under any type of arrangement, 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.~~

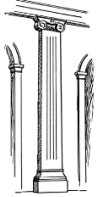
Photovoltaic Solar System, is a system which uses one (1) or more photovoltaic panel(s) installed on the surface of a roof, parallel to a sloped roof or surface or rack-mounted on a flat roof, to convert sunlight into electricity.

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:~~

- ~~(a)~~
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.~~

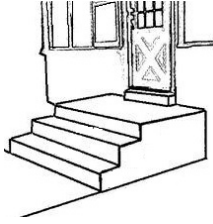
~~**STABLE, PRIVATE.** Any premises where horses, which are owned by and solely for the use of the occupants of the premises, are kept. A private stable is an ancillary use to the principal residence.~~

~~**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.

FREEWAYS and **INTERSTATES.** Arterial streets designed primarily for major through traffic with full control of access and grade separations at all intersections.

~~ARTERIAL STREETS.~~ A street designed or utilized primarily for high vehicular speeds or for heavy traffic volumes.

(c)

~~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 crafts person 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:~~

~~(a) 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. 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.

~~(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.** 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.

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115.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a stop work order. In addition, the building official is authorized to issue a stop work order for the failure to contain or remove construction refuse as required in the Code of Ordinances, Chapter 9, Health and Sanitation.

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

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

C. Section 117. Variances in Flood Hazard Areas.

117.1 Flood hazard areas. Pursuant to F.S. § 553.73, the variance procedures adopted in the City of Cape Coral Floodplain Management Ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of R322 of the Florida Building Code, Residential. This section shall not apply to Section 3109 of the Florida Building Code, Building.

D. Section 612. Flood Loads.

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the 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 sustained 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.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Section 12.3 - 2017 Florida Building Code, Existing Building.

All sections of 2017 Florida Building Code, Existing Building are in effect except as amended as shown below:

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A. Section 202. General Definitions

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the 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 sustained 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.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Section 12.4. International Property Maintenance Code, 2012 Edition.

The International Property Maintenance Code, 2012 Edition, a copy of which is on file in the City Clerk's office, as published by the International Code Council, Inc., is adopted by reference as if totally copied herein, with revisions to sections as follows:

- A. Section 101.1. Insert: City of Cape Coral, Florida.
- B. Section 103.1. Delete the words "department of property maintenance inspection is hereby created", and insert in its place the words "City of Cape Coral Code Compliance Division has been heretofore created". Further, wherever the words "department of property maintenance inspection" or "code official" may appear, substitute the words "City of Cape Coral Code Enforcement Department" and the words "Code Enforcement Manager, or the Manager's designee", respectively.
- C. Section 103.5. Insert: Fees to be amended, if applicable, at a later date.
- D. Section 106.3. Insert at end of such section: The City of Cape Coral Code Enforcement Department may, in addition or alternatively, to pursuing any such criminal or civil penalties of seeking injunctive relief, bring violations for prosecution before the Code Enforcement Special Magistrate, in accordance with §§ 2-81 through 2-96 of the City of Cape Coral Code of Ordinances.
- E. Section 111. Delete.
- F. Section 302.4. Insert: twelve (12) inches in height.
- G. Section 304.14. Insert: January to December.

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- 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 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 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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- 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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2. The notice of determination shall be sent to the requesting party (i.e., the disabled individual or authorized representative) by certified mail, return receipt requested.

3. If reasonably necessary to reach a determination on the request for reasonable accommodation, the City Manager, may, prior to the end of said 45-day period, request additional information from the requesting party, specifying in detail what information is required. Such additional information may include, additional medical information from the requesting party. The requesting party shall have 15 days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 45-day period to issue a written determination shall no longer be applicable, and the City Manager, shall issue a written determination within 30 days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said 15-day period, the City Manager shall issue a written notice advising that the requesting party had failed to timely submit the additional information and therefore the request for reasonable accommodation shall be deemed abandoned or withdrawn and no further action by the City with regard to said reasonable accommodation request shall be required.

E. Criteria for determination. In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish that they are protected under the FHA or ADA by demonstrating that they are handicapped or disabled, as defined in the FHA or ADA. For purposes of this Section, the disabled individual must demonstrate to the City:

1. (i) A physical or mental impairment which substantially limits one or more major life activities; (ii) a record of having such impairment; or (iii) that they are regarded as having such impairment; and
2. That the proposed accommodation being sought is reasonable and necessary to afford handicapped or disabled persons equal opportunity to use and enjoy housing.

F. Required findings. A request for reasonable accommodation pursuant to this Section shall be approved, with or without conditions, if the City Manager finds based upon all of the evidence presented, that all of the following findings are made:

1. The property or dwelling that is the subject of the request for reasonable accommodation will be occupied by a disabled person;
2. The requested accommodation is necessary to provide a disabled person with an equal opportunity to use and enjoy a dwelling;
3. The requested accommodation will not impose an undue financial or administrative burden on the City; and
4. The requested modification will not require a fundamental alteration in the nature of a City program or law.

G. Conditions of approval. In granting a request for reasonable accommodation, the City Manager may impose conditions of approval deemed reasonable and necessary to ensure that the reasonable

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accommodation would comply with the findings of this Section including, but not limited to the following:

1. Inspection of the property periodically as specified, to verify compliance with this Section and any conditions of approval.
 2. Recordation of a deed restriction requiring removal of the improvements when the need for which the accommodation was granted no longer exists, except where the City Manager finds that removal would constitute an unreasonable financial burden or is physically integrated with the structure and cannot feasibly be removed. If applicable, the restrictive covenant shall provide that the reasonable accommodation does not run with the land and shall terminate upon any sale transfer, lease, or other conveyance of the property.
 3. Time limits or expiration of the approval, if the need for which the accommodation was granted no longer exists.
 4. Measures to reduce the impact on surrounding uses.
 5. Measures in consideration of the physical attributes of the property and structures.
 6. Other conditions necessary to protect the public health, safety, and welfare.
- H. Appeal of determination. Within 30 days from the date of the City determination on a reasonable accommodation request, or revocation, or modification of a reasonable accommodation, the applicant may appeal the decision. All appeals shall contain a written statement containing sufficient detail of the grounds for the appeal. Appeals pursuant to this Section shall be to the City Council who shall, after public notice and a public hearing, render a written determination as soon as reasonably practicable, but in no event later than 60 days after an appeal has been filed. Notice of any public hearing hereunder shall be provided to the applicant at least 10 days in advance of the public hearing.
- I. Stay of enforcement. While an application for reasonable accommodation, or appeal or a determination of same, is pending before the City, the City will not enforce the subject zoning ordinance, rules, policies, or procedures against the applicant. However, should the applicant proceed with any property purchase, building, construction, or other work associated with establishing a project or residence housing individuals covered by the FHA or the ADA while an application or appeal for reasonable accommodation is pending, the applicant understands that any of these actions are done at the applicant's own risk because the application or appeal may be denied.
- J. Revocation of reasonable accommodation. Any reasonable accommodation received shall be subject to revocation or modification if the holder of the reasonable accommodation or the property upon which the accommodation is granted is found in violation of any provision of the written determination granting the reasonable accommodation by a court of law or by the special magistrate hearing code enforcement cases, and the holder of the reasonable accommodation has failed to correct such violation. The City shall send a notice of hearing on a proposed revocation or modification of a reasonable accommodation by certified mail, return receipt requested, to the holder of the reasonable accommodation at least 30 days prior to the date of the hearing. The City Manager shall

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have the authority to consider and act on a revocation or modification of a reasonable accommodation, after notice and hearing during which the reasonable accommodation holder shall have the opportunity to present evidence and be heard.

Section 13.2 Dispute Resolution

- A. Purpose and intent. The purpose of this ordinance is to establish procedures for the initiation, conduct, and conclusion of a Special Magistrate proceeding under the Florida Land Use and Environmental Dispute Resolution Act (the "Act") involving a development approval (order) or enforcement action by the City of Cape Coral. It is the intent of the City of Cape Coral that the Special Magistrate process be a speedy, inexpensive, and simple method for owners and regulators to settle land use and environmental permitting and enforcement disputes. To that end, owners and regulators should meet face-to-face, in a non-adversarial atmosphere, to resolve disputes without the need for formal representation. Negotiations assisted by a Special Magistrate will enable an owner and regulators to exert more control over their dispute, allowing the parties to shape a resolution rather than having one imposed on them. The Special Magistrate and the parties should exercise maximum flexibility to adapt these procedures to the exigencies of each particular case, consistent with the requirements of state law and due process.
- B. Definitions. For the purpose of this ordinance, the following definitions shall apply; words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest editions of Webster's Dictionary.
1. CITY. The City of Cape Coral, Florida.
 2. DEVELOPMENT. The meaning given it in F.S. § 380.04, as same may hereafter be amended.
 3. DEVELOPMENT ORDER. Any order which has or will have the effect of granting, denying, or granting with conditions an application for a development permit. This term shall include orders rezoning a specific parcel of land, but shall not include actions on an amendment to the local Comprehensive Plan.
 4. DEVELOPMENT PERMIT.
 - a. Any building permit, zoning permit, subdivision approval, certification, special exception, variance, or any other similar action of the city; or
 - b. Any other permit authorized to be issued by the city under state law which has the effect of authorizing the development of land, including programs implementing F.S. Chapters 125, 161, 163, 166, 187, 258, 372, 373, 378, and 403.
 5. OWNER. A person with a legal or equitable interest in real property who filed an application for a development permit for the real property with the city and who received a development 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 unsworn,
238 of 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,
240 and 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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1. The Special Magistrate holds a position of trust and should adhere to the highest standards of personal integrity, impartiality, and competence. The Special Magistrate should be honest and unbiased, act in good faith, be diligent, and avoid any conflict of interest or the appearance of a conflict of interest. The Special Magistrate should disclose any facts or circumstances that may give rise to justifiable doubts as to impartiality or independence.
2. The standards of conduct for parties and participants may be adopted by the City Council by resolution and shall govern the proceedings unless waived or altered in the Special Magistrate contract.

E. Administrative appeals and judicial review.

1. A petition by the owner for judicial review of the development order or enforcement action or a formal administrative hearing pursuant to F.S. §§ 120.569 and 120.57, if applicable, shall waive all rights to a Special Magistrate proceeding.
2. A request for relief through a Special Magistrate proceeding shall toll the time for filing a petition for judicial review of the development order or enforcement action, or a formal administrative hearing pursuant to F.S. §§ 120.569 and 120.57, if applicable.
3. Invoking the procedures for a Special Magistrate proceeding is not a pre-condition for judicial review of the development order or enforcement action or a formal administrative hearing pursuant to F.S. §§ 120.569 and 120.57.

F. Pre-initiation meeting. Prior to filing a formal request for relief under this ordinance, the owner may request by letter an informal meeting with the City Manager to discuss alternatives to the filing of the Special Magistrate proceeding. The City Manager shall conduct such a meeting as expeditiously as possible and shall include technical staff familiar with the regulations at issue.

G. Request for relief. Any owner who believes a development order or an enforcement action by the city is unreasonable or unfairly burdens the use of the owner's real property may file a request for relief in accordance with the requirements of this ordinance. Request for relief forms shall be maintained by the City Department of Community Development and shall be available during business hours to members of the public.

H. Time for filing. A request for relief must be filed within 30 days after:

1. Receipt of the development order or enforcement action; or
2. If a city administrative appeal is available in the case of a particular development order or enforcement action, the later of the conclusion of such administrative appeal or the expiration of four months after the initiation of such appeal. Before initiating a Special Magistrate proceeding to review a city development order or enforcement action, the owner must exhaust all nonjudicial city administrative appeals so long as such appeals take no longer than four months. Once nonjudicial local administrative appeals have been exhausted and the development order or enforcement action is final, or, if the owner has pursued administrative

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appeals, within four months after issuance of the development order or notice of the enforcement action by the city (even if the appeals have not been concluded), the owner may file a request for relief pursuant to this section.

I. Requirements. The request for relief must contain the following:

1. A brief statement of the owner's proposed use of the property;
2. A summary of the development order or description of the enforcement action. In addition, a copy of the development order or documentation of the enforcement action must be attached;
3. A brief statement of the impact of the development order or enforcement action on the ability of the owner to achieve the proposed use of the property;
4. The signature of the owner or, if the owner is a corporation, partnership, or other organization, the signature of a responsible official, and the mailing address and telephone number at which the owner may be reached;
5. A statement regarding whether any local administrative appeal is available and, if so, whether and when it was commenced by the owner and, if completed, the date of completion; and
6. A certificate of service identifying the persons, if any, who have been furnished with copies of the request for relief.

J. Filing of request for relief.

1. To initiate a Special Magistrate proceeding, an owner must file a signed original and one copy of a request for relief with the Community Development Department. No fee shall be charged by the city for the filing of a request for relief. However, the owner shall be solely responsible for the cost of preparing the original and one copy of the request for relief.
2. Within ten days of receipt by the city of the request for relief filed as provided herein, the City shall forward the original request for relief to a Special Magistrate selected in accordance with this ordinance. This time period may be extended only by agreement of the parties.

K. Notice of filing.

1. Concurrently with the forwarding of the request for relief to the Special Magistrate, the city shall serve, by U.S. Mail or hand delivery, a notice of the filing of the request for relief to the following:
 - a. Owners of real property contiguous to the applicant's property at the address shown on the latest Lee County tax roll; and
 - b. Any substantially affected person who submitted oral or written testimony of a substantive nature which stated with particularity an objection to or support for any development order

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or enforcement action at issue. However, notice under this paragraph is required to be provided to such a substantially affected person only if that person requested in writing or at a public hearing expressed a desire to be placed on a mailing list to receive notice of any subsequent proceeding on the development order or enforcement action at issue. The city shall maintain in its files relating to particular development orders a mailing list of persons who have presented oral or written testimony and who have requested notice.

2. The notice of the filing of the request for relief need not contain any attachments or supporting documentation which may have accompanied the request for relief. However, in lieu of providing a complete copy of the request for relief, the notice of filing shall contain any information necessary for the recipient to secure a complete copy of the request for relief. The cost of preparing and serving copies of the request for relief on qualifying participants shall be borne equally by the parties.
3. Any failure to notice potential participants shall be cured by posting of notice of the Special Magistrate proceeding in a location established by the City Council for that purpose.

L. Special Magistrate.

1. Qualifications and restrictions. A Special Magistrate need not be a lawyer or a mediator certified by the Florida Supreme Court. However, in order to serve as a Special Magistrate in a proceeding pursuant to this ordinance, a person must:
 - a. Be a resident of the State of Florida;
 - b. Possess experience and expertise in mediation; and
 - c. Possess experience and expertise in at least one of the following disciplines and a working familiarity with the others:
 - i. Land use and environmental permitting;
 - ii. Land planning;
 - iii. Land economics; and
 - iv. Local and state government organization and powers, and the law governing the same.
2. Special Magistrate selection.
 - a. The City Council shall at least annually recruit qualified persons to serve as Special Magistrates and shall, on an annual basis, appoint at least three qualified persons to serve as "pre-approved" Special Magistrates.
 - b. The city shall include in the request for relief form provided to the owner a pre-approved list of Special Magistrates and instructions for objecting to any person named on the list.
 - c. The parties may mutually agree on a Special Magistrate. In instances in which the city has been joined by a Special Magistrate pursuant to subsection (11) of the Act, the city shall not unreasonably refuse to abide by the choice of a Special Magistrate by the original parties.

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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.

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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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- determination of verification and authentication are within the Special Magistrate's discretion.
- e. At any time, the Special Magistrate may require any party to provide additional information in the interest of gaining a complete understanding of the request for relief.
 - f. Each party may record the hearing at its own expense. The Special Magistrate may record the hearing to assist in preparing a recommendation as required by § 8.13.11. If the Special Magistrate makes such a recording, it will be forwarded to the city with the recommendation, but will be subject to the restrictions on information contained in § 8.13.10H.
 - g. Any documents or tangible materials presented to the Special Magistrate at hearing shall be submitted to the Mayor of the Cape Coral City Council with the Special Magistrate's recommendation. Any notes or drafts produced by the Special Magistrate and not intended to record information in a permanent form shall remain the property of the Special Magistrate.
 - h. If a party fails to appear at the hearing after notice, the Special Magistrate may proceed without that party or may adjourn the hearing to another day, giving notice to the absent party.
 - i. Information may be given and parties, participants, or their representatives may participate by telephone, videotape, or other communications medium unless otherwise agreed in a Special Magistrate agreement.
6. Witnesses and materials.
- a. Each party must assure attendance at the hearing by those persons qualified by training or experience to address issues raised by the request for relief, by the response, or by the Special Magistrate, or to address alternatives, variances, and other types of modifications to the development order or enforcement action.
 - b. The Special Magistrate may issue a subpoena for any nonparty witness in the state who will aid in the disposition of the matter. A subpoena issued by a Special Magistrate may require the witness to bring a specified document or thing.
 - c. The Special Magistrate may require and receive documents and other tangible materials from any party or participant. All parties and participants shall have the opportunity to examine and respond to such submissions.
 - d. The Special Magistrate may weight the credibility of witnesses.
 - e. Although an attorney is not required, any person compelled to appear or furnish documents or tangible materials, or who appears voluntarily, may be represented and advised by legal counsel at his or her own expense.

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7. Access to the property.

a. A request for relief constitutes a consent by the owner for the Special Magistrate and parties or representatives to have reasonable access to the owner's land.

b. The owner may grant access to the land to participants.

8. Offer to compromise.

a. As provided by law:

i. All actions or statements of the Special Magistrate, the parties, and all participants are evidence of an offer to compromise and are inadmissible in any judicial or administrative proceeding.

ii. The proceeding may not be made known by a party or participant to any judicial or administrative tribunal, or be construed for any purpose as an admission against interest.

b. A party or participant is not bound by anything said or done during the proceeding unless a written settlement is reached, in which case only the terms of the written settlement shall be binding.

c. The Special Magistrate may not be called to appear before the City Council with respect to any aspect of the proceeding, nor may the Special Magistrate be compelled to furnish notes or drafts.

R. Settlement.

1. The owner and the city may enter into a settlement agreement or other agreement as to the permissible use of the owner's land prior to the Special Magistrate filing a recommendation under § 8.13.11.

2. A settlement agreement or other agreement as to the permissible use of the owner's land may be executed subject to approval by the City Council. Any such agreement will not bind any party until duly approved and executed by all parties to the agreement.

S. Post-hearing procedures.

1. Special Magistrate's recommendation.

a. The Special Magistrate shall file a recommendation with the Mayor within 14 days after the conclusion of the hearing. The Special Magistrate shall also furnish a copy of the recommendation to all parties and participants.

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- b. If a settlement agreement or other agreement as to the permissible use of the owner's land is executed prior to the Special Magistrate's recommendation, the recommendation shall only:
- i. Set forth the date and location of the hearing;
 - ii. Identify the parties and other participants in attendance at the hearing;
 - iii. Record, without comment, the fact that a settlement agreement or other agreement as to the permissible use of the owner's land has been executed; and
 - iv. Include as an attachment an executed copy of the settlement agreement or other agreement as to the permissible use of the owner's property.
- c. If a settlement agreement or other agreement as to the permissible use of the owner's land is not executed prior to the filing of the Special Magistrate's recommendation, the Special Magistrate will consider the facts and circumstances set forth in the request for relief, any responses, and any other information produced at the hearing to determine whether the development order or enforcement action, by itself or in conjunction with an action of the city or another governmental entity, is unreasonable or unfairly burdens the owner's land.
- d. In making a determination, factors the Special Magistrate may consider include the following:
- i. The history of the land, including when it was purchased, how much was purchased, where it is located, the nature of the title, the composition of the property, and how it was previously used;
 - ii. The history of development and use of the land, including what was developed and by whom, if it was subdivided and how and to whom it was sold, whether plats were filed or recorded, and whether infrastructure and other public services or improvements may have been dedicated to the public;
 - iii. The history of relevant environmental protection and land use controls and other regulations, including how and whether the land was classified, any uses that may have been proscribed, and what changes in classifications have occurred;
 - iv. The present nature and extent of the land, including natural and altered characteristics;
 - v. The reasonable expectations of the owner at the time of acquisition or immediately prior to the implementation of the regulation at issue, whichever is later, under the regulations then in effect and under common law;
 - vi. The public purpose sought to be achieved by the development order or enforcement action, including the nature and magnitude of the problem addressed by the underlying regulations on which the development order or enforcement action is based; whether the development order or enforcement action is necessary to the achievement of the public purpose; and whether alternative development order or enforcement action conditions would achieve the public purpose and allow for reduced restrictions on the use of the owner's land;
 - vii. Uses authorized for and restrictions placed on similar property, including adjacent lands; and

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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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1. The Special Magistrate's recommendation is advisory and not binding on the owner or the City Council.
 2. A Special Magistrate's recommendation constitutes data which shall be considered with respect to any pertinent amendment to the Comprehensive Plan.
 3. A Special Magistrate's determination that the development order or enforcement action, by itself or in conjunction with actions of the city or another governmental entity, is unreasonable or unfairly burdens the owner's land may serve as an indication of sufficient hardship to support modifications, variances, or special exception to the application of statutes, rules, regulations, or ordinances to the subject property as otherwise authorized by applicable rules and regulations.
- U. Disposition of Special Magistrate's recommendation.
1. Within 45 days of receipt of the Special Magistrate's recommendation, the City Council shall:
 - a. Accept the recommendation as submitted and implement it in the ordinary course and consistent with all other rules and regulations;
 - b. Modify the recommendation as submitted and implement it in the ordinary course and consistent with all other rules and regulations; and
 - c. Reject the recommendation as submitted. Failure to act within 45 days of receipt of the recommendation shall be deemed a rejection, unless the owner and the city agree to an extension of time.
 2. If the City Council adopts a recommendation to grant a modification, variance, or special exception to the application of ordinances or regulations as they otherwise would apply to the land, the owner shall not be required to duplicate processes in which the owner previously has participated in order to effectuate the modification, variance, or special exception.
 3. If the Special Magistrate recommends relief or other action in conjunction with another governmental entity, the City Manager and/or his or her designee shall confer with appropriate staff from the other entities to review the recommendation and determine whether a joint staff recommendation can be made to the heads of the respective governmental entities.
 4. Within 15 days after final action on the Special Magistrate's recommendation by the City Council, the City Clerk shall send a copy of the order or other document memorializing final action to the Florida Department of Legal Affairs.
 5. Within ten days of final action on the recommendation, the owner shall notify the City Manager in writing whether the owner accepts the decision on the recommendation.
 6. If the City Council accepts the recommendation or modifies it and the owner rejects the acceptance or modification, or if the City Council rejects the recommendation, the City Council 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.

Item Number:	6.B.
Meeting Date:	11/28/2018
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 Daltrey, 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	Type
▢ Future Land Use Map (Draft)	Backup Material



NOTE: Large scale Future Land Use Map amendments shall become effective beginning 120 days after the City receives notification of the amendment of the Comprehensive Zoning Ordinance. Chapter 163.104, F.S., provides no remedy for challenging the amendment if filed pursuant to Chapter 163.104 (b), F.S. Small scale Future Land Use Map amendments shall become effective thirty-one (31) days after ordinance adoption in accordance with Chapter 163.104 (b), F.S. provided no remedy for challenging the amendment if filed pursuant to Chapter 163.104 (b), F.S.

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

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

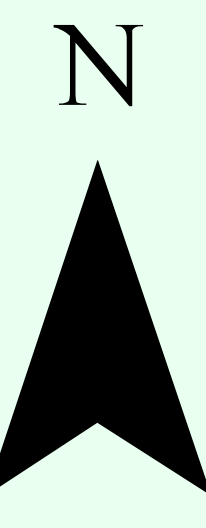
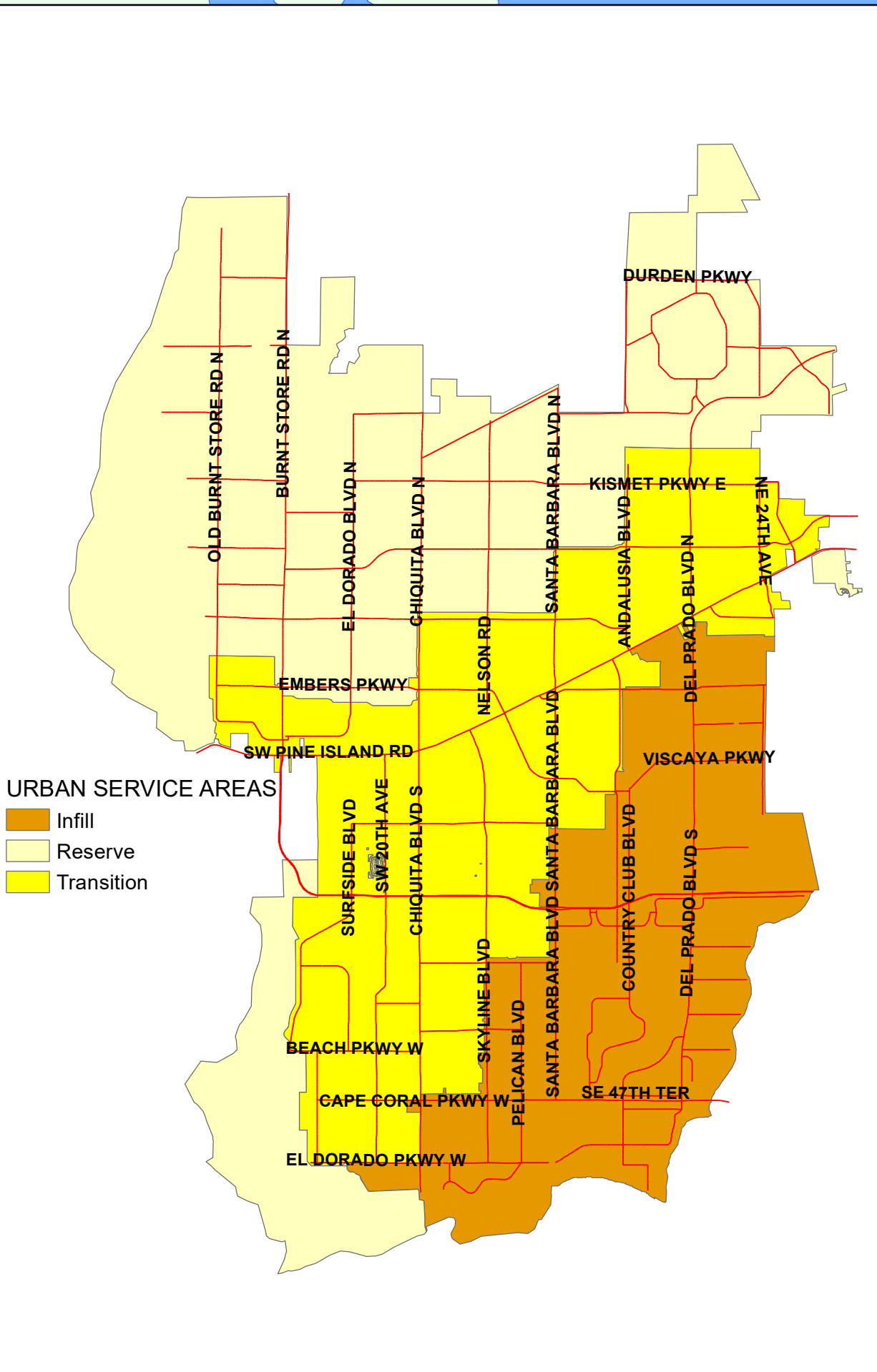
Sub-District

Map Features

Canals & Lakes

Community Redevelopment Area

ROW (Right of Way)



Item Number:	6.C.
Meeting Date:	11/28/2018
Item Type:	PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

**AGENDA
REQUEST
FORM**
CITY OF CAPE
CORAL



TITLE:

Zoning Map (Draft)

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:

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Draft Zoning Map	Backup Material

Charlotte Harbor



CITY OF CAPE CORAL ZONING DISTRICTS P & Z PUBLIC HEARING DRAFT

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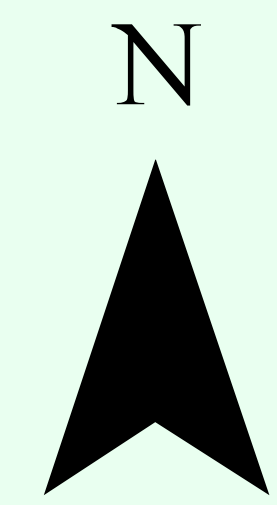
11/19/2018

ZONING DISTRICTS

- R1 (Single-Family Residential)
- RML (Residential Multi-Family Low)
- RMM (Residential Multi-Family Medium)
- RE (Residential Estate)
- C (Commercial)
- P (Professional Office)
- I (Industrial)
- INST (Institutional)
- NC (Neighborhood Commercial)
- CC (Commercial Corridor)
- MX7 (Mixed-Use Seven Islands District)
- MXB (Mixed-Use Bimini District)
- SC (South Cape Downtown District)
- A (Agricultural)
- PV (Preservation)
- PV-Regulated by FLU
- Lee County Zoning

MAP FEATURES

- Canals & Lakes
- Community Redevelopment Area
- ROW (Right of Way)



Item Number:	9.A.
Meeting Date:	11/28/2018
Item Type:	DATE AND TIME OF NEXT MEETING

**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL



TITLE:

Regular Meeting December 5, 2018 at 9:00 a.m. in Council

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:

WHAT THE ORDINANCE ACCOMPLISHES:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION: