

## **Cape Coral Planning & Zoning Commission Workshop**

1015 Cultural Park Blvd.  
Cape Coral, FL  
[www.capecoral.net](http://www.capecoral.net)



### **AGENDA**

Wednesday, January 10, 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, Marmo, Peterson, Ranfranz, Read, Scheider, Slapper, and Alternate Robinson

**5. BUSINESS**

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

A. LDC WORKSHOP MEMO

B. Article 3 Classification or Development Review Procedures

C. Article 13 Definitions Draft

**7. DATE AND TIME OF NEXT MEETING**

A. Workshop Date to be Determined (TBD)

B. Regular Planning and Zoning Meeting; Wednesday, February 7,

## **8. 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 Human Resources 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.

<b>Item Number:</b>	6.A.
<b>Meeting Date:</b>	1/10/2018
<b>Item Type:</b>	PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

**AGENDA  
REQUEST  
FORM**  
CITY OF CAPE  
CORAL



**TITLE:**  
LDC WORKSHOP MEMO

**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:**

**LEGAL REVIEW:**

**EXHIBITS:**

**PREPARED BY:**

Division- Department-

**SOURCE OF ADDITIONAL INFORMATION:**

**ATTACHMENTS:**

Description	Type
▢ LDC MEMO	Backup Material

## **MEMORANDUM**

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

TO: Planning and Zoning Commission

FROM: Robert H. Pederson, Planning Manager <sup>RHP</sup>

DATE: December 20, 2017

SUBJECT: Continuing P&Z review of the new Land Development Code

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#### **Transmittal of Articles 3 & 13**

Attached are Article 3 – Development Review and the revised Article 13 – Definitions for your review. Staff will present and overview of these articles at the January 10th meeting. We are also sending these Articles and all work product for the LDC update to the stakeholders group.

It is important to note that the attached articles are drafts and will undoubtedly change through the course of P&Z review, City Attorney's office review, further staff review, and public comment. This process will continue until final review and hearings by City Council.

#### **Update**

Staff continues to work on finalizing the entire LDC draft for your review. As previously stated, a complete rewrite of land development regulations is a complex task, with many interrelationships to be considered. Our work since the August meeting has resulted in further reorganization of the draft LDC, as shown below:

<b>Article</b>	<b>LUDR</b>	<b>LDC*</b>
1	General Provisions	General Provisions
2	District Regulations	Decision Making and Administrative Bodies
3	Supplementary District Regulations	Development Review
4	Land Development Regulations	Zoning Districts
5	Supplementary Development Regulations	Development Standards
6	Floodplain Management	Signs
7	Signs	Nonconformities
8	Administration	Floodplain Management
9	Boards, Commissions, and Committees	Subdivisions
10	Violations and Penalties	Concurrency

11	Definitions	Governmental Dispute Resolution, Vested Rights
12	Building Codes and City Engineering Standards	Building Codes and City Engineering Standards
13		Definitions

\*Numbering of Articles may change

## **P&Z Review**

### **Article 3 Supplementary District Regulations**

Attached is a draft of Article 3. This article will establish the standards and procedures for review and approval of proposed development within the City of Cape Coral, and to provide a comprehensive development review process.

### **Article 13 Definitions**

We have provided an updated draft LDC Article 13, which overhauls the existing Article 11, Definitions. The new Code is structured to have all definitions located within this Article, which is a change from the current Code, which has separate definitions within certain sections (e.g. marine improvements, floodplain regulations, signs) located sporadically in the Code. Updates include page and line numbers.

### **LUDR to LDC Comparison**

Staff continues to work on a chart to list each current code section and to identify where those code provisions are found in the new LDC. As always, should you have any questions about a particular code requirement or issue, please feel free to contact me.

<b>Item Number:</b>	<b>6.B.</b>
<b>Meeting Date:</b>	<b>1/10/2018</b>
<b>Item Type:</b>	<b>PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING</b>

**AGENDA  
REQUEST  
FORM**  
CITY OF CAPE  
CORAL



**TITLE:**

Article 3 Classification or Development Review Procedures

**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:**

**LEGAL REVIEW:**

**EXHIBITS:**

**PREPARED BY:**

Division- Department-

**SOURCE OF ADDITIONAL INFORMATION:**

**ATTACHMENTS:**

<b>Description</b>	<b>Type</b>
<input type="checkbox"/> Article 3 Classification or Development Review Procedure	Backup Material



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

**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
4. Sign Permits (See Article 6)
5. Lot Splits and Lot Combines
6. Preliminary Subdivisions (See Article 9)
7. Conditional Uses
8. Master Control Plan Amendments
9. Administrative Deviations
10. Site Development Plans
11. Temporary Use Permits
  - a. Special Events
  - b. Temporary Storage
  - c. Seasonal Sales
  - d. Construction Trailers
  - e. Construction Staging Areas and Post Disaster Staging
  - e. Temporary Sales Offices
12. Reasonable Accommodations (See Article 11)

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

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

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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

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.

**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 permit type; and the appeal authority for each type of permit decision.



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TABLE 3.1.2 DEVELOPMENT APPROVAL AND REQUIRED NOTICE											
✓	Applicable Review Procedure	Recommendation	Decision	Appeal	Administrative	Quasi-Judicial	Legislative	Notice (minimum 10 days prior to scheduled hearing)	Published	Mailed	Posted
D	Director										
HEX	Hearing Examiner										
LPA	Planning and Zoning / Local Planning Agency										
CC	City Council										
<u>Code Section</u>	<u>Application Type</u>										
	Zoning Verification Letter		D								
	Zoning Compliance Letter		D								
	Administrative Interpretation		D	HEX							
	Temporary Use Permits		D								
3.2.6	Sign Permit		D	HEX	✓						
	Lot Splits and Combines		D								
	Subdivision – Preliminary		D	HEX/ CC		✓		✓			✓
	Subdivision – Final Plat		D		✓						
3.2.1	Conditional Use		D	HEX/ CC	✓						
3.2.3	Administrative Deviations Parking, signs, dumpster, design		D	HEX/ CC	✓						
3.2.3	Deviations					✓		✓		✓	✓
3.2.4	Variance	D	HEX	CC		✓		✓		✓	✓
3.2.5	Special Exception	D	HEX	CC		✓		✓		✓	✓
3.2.11	PDP/PUD Amendment		HEX	CC			✓	✓			
3.2.10	Vacation – Easements/Lots/Plats	HEX	CC	Court				✓		✓	✓
3.2.11	Rezone	HEX	CC	Court			✓	✓	✓	✓	✓
	LDC Text Amendment	LPA	CC	Court			✓	✓	✓		
	Comp Plan Text Amendment	LPA	CC	Court			✓	✓	✓		
3.2.12	FLUMA	LPA	CC	Court			✓	✓	✓	✓	✓

66  
67  
68  
69

**Section 3.1.4. Application submittals.**

- 70 A. Unless otherwise indicated by a specific provision of this Article, the applicant for a permit or approval  
71 under this Code must be the owner of the property that is the subject of the application or a duly

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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.

**Section 3.1.5. Pre-application meetings.**

A. Upon request of an applicant, the director may schedule and hold pre-application conferences with applicants and appropriate representatives of 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 conference. A pre-application meeting is required for Planned Unit Development applications.

B. The pre-application conference 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 conference 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 or commission from requesting additional information or waiving certain requirements for information later during the review process.

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3. Advise the applicant whether the proposed project conforms to the Comprehensive Plan or the requirements of this title.

D. Any recommendations or determinations reached are purely advisory and shall not be binding either on the applicant or the borough.

**Section 3.1.6. Fees Required.**

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

**Section 3.1.7. Complete Applications Required.**

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:

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- 164
- 165 A. Meets the stated objective requirements of the comprehensive plan, this Code, and the City Code of
- 166 Ordinances; and
- 167
- 168 B. Includes the necessary analysis and information in sufficient detail to enable the decision-making
- 169 body or official to make the necessary determinations under the comprehensive plan and this Code.
- 170
- 171 C. The sufficiency and code requirements set forth herein shall be used by the City to evaluate the
- 172 demands created on public services and facilities by a proposed development, as required by this code
- 173 or identified in Article 9, Concurrency. The following public services and facilities shall be evaluated:
- 174
- 175 1. Drainage facilities;
- 176
- 177 2. Environmentally sensitive lands;
- 178
- 179 3. Fire protection;
- 180
- 181 4. Parks and open space;
- 182
- 183 5. Police protection;
- 184
- 185 6. Potable water;
- 186
- 187 7. Wastewater;
- 188
- 189 8. Solid waste;
- 190
- 191 9. Stormwater; and
- 192
- 193 10. Transportation facilities.
- 194

195 **Section 3.1.9. Decision-making.**

196

- 197 A. Administrative approvals. Upon determining that an application and all supporting information are
- 198 sufficient to render a decision, the Director shall take administrative action required by this code and
- 199 approve the application, approve the application with conditions, or deny the application.
- 200
- 201 B. Quasi-judicial and legislative approvals. Upon determining that an application and all supporting
- 202 information are sufficient to render a decision and any inadequacies have been resolved, the Director
- 203 shall prepare a report and recommendation to the appropriate decision-making or recommending
- 204 body.
- 205

206 **Section 3.1.10. Public Hearing Scheduling and Notice Requirements.**

207

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- 208 A. Scheduling for consideration. When an application is deemed sufficient pursuant to LDC Section 3.1.8,  
209 the Director shall schedule a public hearing for an appropriate date. No application shall be scheduled  
210 for consideration by the Hearing Examiner, Commission, or City Council until either:  
211
- 212 1. All specified insufficiencies have been resolved; or
  - 213
  - 214 2. The applicant has elected in writing to proceed notwithstanding the unresolved insufficiencies.
  - 215
- 216 B. Required notice of public hearings. Notice of public hearings shall be provided by publication of an  
217 advertisement in a newspaper of general circulation, mailed notice to surrounding property owners,  
218 and posting of the development site pursuant to the requirements of this section. Table 3.X.X depicts  
219 the public hearing notice requirements for quasi-judicial and legislative applications under this Code:  
220
- 221 C. Website posting. Notices of public hearings for development applications shall be posted on the City  
222 of Cape Coral website but failure to post a case on the City website shall not constitute a violation of  
223 City noticing requirements. In addition, information about public notice and public hearings may be  
224 posted by the City on social media outlets.  
225
- 226 D. Publication. Publication of advertisements for public hearings concerning comprehensive plan  
227 amendments shall meet the requirements of Chapter 163, Florida Statutes. Publications for public  
228 hearings concerning zoning amendments shall meet the requirements of Chapter 166 Florida  
229 Statutes.  
230
- 231 E. Posting. The application site shall be posted with a notice of the public hearing on a sign provided by  
232 the Community Development Department at least ten (10) calendar days in advance of any public  
233 hearing. The number and placement of public notice signs should be determined by the Department.  
234 The signs shall be removed by the City after a final decision. The failure to remove posted notice after  
235 a final decision shall not be deemed a failure to comply with this requirement or be grounds to  
236 challenge the validity of any final decision on the application(s).  
237
- 238 F. Mailed notice. Notice of a public hearing on a proposed development application(s) shall be mailed  
239 to all owners of real property within five hundred (500) feet of the periphery of the site in question,  
240 whose names and addresses are known by reference to the latest published ad valorem tax records  
241 of the Lee County Property Appraiser.  
242
- 243 1. Individually owned multi-family units. When real property consists of individually owned multi-  
244 family units, notice shall be given to the homeowner's association, if applicable, all individual unit  
245 owners, and all real property owners within five hundred (500) feet. If any area adjacent to the  
246 development site is owned by the applicant or any partner listed on the application, the five  
247 hundred (500) foot notification boundary shall be extended from these parcels. All property  
248 owner associations in the notice area shall be notified.  
249
  - 250 2. Notice to other jurisdictions. If there are unincorporated lands within 500 feet of the property,  
251 Lee County shall also be notified.  
252

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

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**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 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



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- 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.
  - l. 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.

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- 391  
392 2. The Chair or Hearing Examiner may exclude evidence or testimony that is not relevant, material,  
393 or competent or testimony which is unduly repetitious or defamatory.  
394  
395 3. The Chair, with the advice of the City Attorney, will determine the relevancy of evidence. In  
396 matters decided by the Hearing Examiner, the Hearing Examiner, without the advice of the City  
397 Attorney, will determine the relevancy of evidence.  
398  
399 4. Matters relating to an application's consistency with the Comprehensive Plan, the City Code of  
400 Ordinances, or the Land Development Code will be presumed to be relevant and material.  
401  
402 5. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence,  
403 but it shall not be sufficient by itself to support a finding unless it would be admissible over  
404 objection in court.  
405  
406 6. Documentary evidence may be presented in the form of a copy of the original, if available. A copy  
407 shall be made available to the decision-making body or the Hearing Examiner and to the staff no  
408 later than two business days prior to the hearing on the application. Upon request, the applicant  
409 and staff shall be given an opportunity to compare the copy with the original. Oversized exhibits  
410 shall be copied and reduced for convenient record storage.  
411  
412 7. Only the applicant, an authorized representative of the applicant, staff, and the decision-making  
413 body or the Hearing Examiner shall be entitled to conduct cross-examination when testimony is  
414 given or documents are made part of the record.  
415  
416 8. The City Attorney shall represent the decision-making body and advise it as to procedures to be  
417 followed.  
418  
419 9. The Planning and Zoning Commission, Hearing Examiner, or City Council shall take judicial notice  
420 of all state and local laws, ordinances, and regulations and may take judicial notice of such other  
421 matters as are generally recognized by the courts of the State of Florida.  
422  
423 10. Supplementing the record after the quasi-judicial hearing is prohibited, unless specifically  
424 authorized by an affirmative vote of the decision-making body, or authorized by the Hearing  
425 Examiner, under the following conditions:  
426  
427 a. The supplementation occurs after a quasi-judicial hearing is continued but prior to final action  
428 being taken on the application or appeal.  
429 b. If a question is raised by the Planning and Zoning Board/Local Planning Agency, Hearing Examiner, or  
430 City Council at the hearing which cannot be answered at the hearing, the party to whom the question  
431 is directed will submit the requested information in writing to the City Clerk and the decision-making  
432 body or Hearing Examiner after the quasi-judicial hearing, with copies to the other parties, provided  
433 the hearing has been continued or another hearing has been scheduled for a future date and no final  
434 action has been taken by the decision-making body or Hearing Examiner. The information requested  
435 will be presented to the decision-making body or the Hearing Examiner at least two business days  
436 prior to the time of the continued hearing.

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c. All parties and participants shall have the same right with respect to the additional information as they had for evidence presented at the hearing.

G. Final decision. The City Council or the Hearing Examiner shall reach a written decision without unreasonable or unnecessary delay. The Hearing Examiner shall provide a copy of the decision to the City Clerk for transmission to the applicant, if the applicant is not the City, to the Director of the Department of Community Development, and the City Attorney.

H. The Record. All evidence admitted into the record at the hearing, the official file, and the adopted development order, ordinance, or resolution of the City Council or the written decision of the Hearing Examiner shall be maintained by the City Clerk or the Department of Community Development.

I. Adjournment. The Chairperson, upon a vote of the majority present, or Hearing Examiner, as applicable, may adjourn a hearing to a date certain without the necessity of additional notice. Adjournment to an uncertain date shall require notice as required for the original hearing and by the Land Development Code.

J. Deferrals. If a hearing is concluded, but action is deferred until a future date, formal notice shall not be required prior to action being taken.

K. Joint hearings. Where deemed necessary, joint hearings may be conducted after proper public notice. In such instances, public notice need only be given by one public body, which shall be the City Council in instances where it is one of the hearing bodies.

L. Regularly scheduled public hearing dates. The Hearing Examiner or the City Council may establish regular dates for public hearings on zoning amendments. Such dates, if established by the Hearing Examiner, or the City Council, shall not prevent the Hearing Examiner or City Council from scheduling additional public hearings whenever such public hearings are deemed necessary.

M. Reading of ordinances. Except for ordinances initiated by the City Council which rezone a parcel or parcels of land involving ten or more contiguous acres, or change permitted, special exception, or prohibited use categories in zoning districts, all ordinances shall be read, either by title or in full, on two separate days at a duly noticed public hearing of the City Council.

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

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

A. When this Article authorizes the Community Development Director, Hearing Examiner, or City Council to make decisions under this Chapter, that decision shall be made pursuant to the specific criteria applicable to the application in Chapter 2 (Specific Review Procedures). If Chapter 2 does not include specific criteria for that type of decision, the Community Development Director or Department, Hearing Examiner, Commission, or Council shall make the decision based on whether the application

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complies with this Article and any regulations authorized by this Code, and will protect the public health, safety, and welfare.

- B. Unless otherwise indicated in a specific provision of this Article, the Community Development Director, Hearing Examiner, or City Council may approve the application, deny the application, or approve the application subject to conditions as stated in Section 3.1.13, below.
- C. Unless otherwise stated in this Article, or unless a different condition is attached to a permit or approval, permits and approvals granted under this Article are not affected by changes in ownership or tenancy of the property.

**Section 3.1.13. Conditions on Approvals.**

- A. The Community Development Director, Hearing Examiner, or City Council may attach conditions to any quasi-judicial permit or approval under this Chapter, provided the condition is required to bring the development proposed in the application into compliance with the requirements of the Comprehensive Plan or the LDC.
- B. The Community Development Director, Hearing Examiner, or City Council may also attach conditions to any quasi-judicial development permit or approval under this Code, provided the condition is necessary to minimize or ameliorate potential adverse impacts of the development proposal. Such conditions shall be reasonably related to the actual or potential impact(s) of the specific use, activity, or structure in question.

**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. 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.

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- 528
- 529 C. Appeals from decisions of the Hearing Examiner. Any aggrieved party by a decision of the Hearing
- 530 Examiner on a quasi-judicial matter or a Hearing Examiner decision on an administrative appeal may
- 531 file an appeal to the City Council within 30 days by filing a written Notice of Appeal with the City Clerk.
- 532 All such appeals shall be based on the record.
- 533
- 534 D. Appeals from decisions of the City Council. An action to review any decision of the City Council under
- 535 these regulations may be taken by any person or persons aggrieved by such decision by presenting to
- 536 the Circuit Court a petition for issuance of a Writ of Certiorari, duly certified, setting forth that such
- 537 decision is illegal, in whole or in part, certifying the grounds of the illegality, provided same is done in
- 538 the manner and within the time provided by Florida Rules of Appellate Procedure.
- 539
- 540 E. Stay of proceedings. An appeal shall stay all proceedings in the matter appealed from until the final
- 541 disposition of the appeal by the City Council or Hearing Examiner. The pendency of an appeal shall toll
- 542 all time periods applicable to the decision which is subject to appeal until final disposition of the
- 543 appeal by the City Council or Hearing Examiner with regard to the appeal.
- 544
- 545 F. Record. The record to be considered in the appeal shall include any application, exhibits, appeal
- 546 papers, written objections, waivers, or consents considered by staff, the Hearing Examiner, or City
- 547 Council, as well as transcripts and recordings taken at a public hearing, the Hearing Examiner or City
- 548 Council minutes, and resolutions or ordinances showing the decision or action being appealed. The
- 549 record shall also include the record made as a result of any prior applications for development
- 550 approval on the same property. The City Clerk shall identify all exhibits used at the hearing. All exhibits
- 551 so identified or introduced shall be a part of the City record.
- 552

553 **CHAPTER 2. GENERAL REVIEW PROCEDURES**

554

555 **Section 3.2.1. All Permits and Approvals**

556

- 557 A. General Requirements for all permit applications.
- 558
- 559 1. Applications for permits or approvals shall be submitted with forms supplied by the Department
- 560 and any required supporting documentation, plans, or materials required by this Code or specified
- 561 in the application form(s).
- 562
- 563 2. Applications shall include any required fee(s) as established by the City Council.
- 564
- 565 3. Incomplete applications will not be accepted.
- 566
- 567 4. Before any use of land, building, or structure is established or any established use of land, building,
- 568 or structure is changed to a different use than that identified in the previously-issued certificate of
- 569 use under the prior LUDR, a certificate of zoning compliance under this code, or a business tax receipt
- 570 for the property, the person seeking to establish the use must obtain a certificate of zoning
- 571 compliance. Failure to secure a certificate of zoning compliance before establishing a use of land,
- 572 building, or structure or before changing the use of the property from the use recognized in a duly-

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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
  - 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:
    - 1. Above ground pools that contain water over 24 inches deep;

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2. Agricultural or farm buildings and non-habitable structures on A, Agriculture zoned sites;
  3. Canopy carports, canopies, and other fabric covered framework on residential properties;
  4. Chickee huts constructed by Miccosukee or Seminole Indians;
  5. 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;
  6. 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;
  7. Decorative garden-type water fountains and other similar hardscape features;
  8. Portable mini-storage unit, subject to the conditions and limitations of contained in Article 5;
  9. Donation bins, recycling bins, mobile medical and professional units in accordance with Article 5; and
  10. Anchoring, mooring, docking, or storage of a houseboat.
- B. The Community Development Director shall have the authority to require a zoning 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.
- 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:



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- 664 a. The City has reasonable grounds to believe that the premises are being used in a manner that is  
665 inconsistent with, or contrary to, the provisions of the City Code or any other applicable code or  
666 statute.
- 667 b. In the event of a conviction of any owner, operator, manager, supervisor, or any employee acting  
668 at the direction or with the knowledge of the owner, operator, manager, or supervisor, by a court  
669 of competent jurisdiction, for the violation of any criminal statute committed in conjunction with  
670 the business operation.
- 671 c. It has been ascertained that the holder of the certificate of zoning compliance falsified  
672 information on the application for the certificate of zoning compliance.
- 673 d. The holder of the certificate of zoning compliance, or the designated manager, operator, or  
674 supervisor, refuses to permit an authorized law enforcement officer or code enforcement officer  
675 to inspect the premises during normal business hours for the purpose of investigating a  
676 complaint which has been filed against the business operation.
- 677
- 678 E. Notice of revocation. When a notice of revocation is issued it shall state the following:  
679
- 680 THE HOLDER OF THE CERTIFICATE OF ZONING COMPLIANCE SHALL HAVE TEN (10) DAYS FROM THE DATE  
681 OF THIS NOTIFICATION TO EITHER BRING THE PREMISES INTO COMPLIANCE OR TO REQUEST A  
682 HEARING, IN WRITING, BEFORE THE SPECIAL MAGISTRATE.
- 683
- 684 IF THE VIOLATION IS NOT CURED OR IF NO WRITTEN REQUEST FOR A HEARING IS RECEIVED BY THE CITY  
685 OF CAPE CORAL WITHIN TEN (10) DAYS OF THE DATE OF THIS NOTIFICATION BY THE CERTIFICATE  
686 HOLDER, THE CERTIFICATE OF ZONING COMPLIANCE SHALL BE CONSIDERED REVOKED.
- 687
- 688 F. Stay pending hearing. If the holder of the certificate of zoning compliance requests a hearing before the  
689 City Council, the certificate of zoning compliance shall remain in effect during the pendency of the action  
690 before the City Council.
- 691

692 **Section 3.3.3. Administrative Interpretations**

693

- 694 A. Purpose and Intent.
- 695
- 696 1. To determine whether a proposed use activity or site design complies with comprehensive plan.
- 697
- 698 2. To interpret specific comprehensive plan policies.
- 699
- 700 3. To interpret whether a proposed use, activity, or site “design” complies with the LDC.
- 701
- 702 4. To determine how specific code may requirements apply to a site or a development proposal
- 703 when application of such requirements is not explicitly set forth in the LDC.
- 704
- 705 5. To interpret the application of conditions of approval.
- 706
- 707 B. Review Criteria
- 708

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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 CDD policies and procedures.

**Section 3.3.4. Lots Splits and Lot Combines**

**A. Purpose and Intent.**

1. To provide standards for the split and combination of lots along existing platted property lines.
2. To provide standards for the split and combination of lots that do not require a replat.
3. To provide for a one time split of property in accordance with F.S. 177.031(18) and this code, when the lot split or combine does not require approval as a subdivision or replat.

**B. General Requirements**

1. All divisions of land in the City shall occur only as a subdivision, a replat, or a lot split. The requirements for subdivisions and replats are set forth in Article 9 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 a preliminary subdivision.
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**

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 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 lots shall not result in private utility lines crossing property lines.
6. A survey sketch prepared by a public surveyor and mapper (PSM) indicating the legal description of the parent parcel, boundaries, dimensions, easements, restrictions or agreements affecting the

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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 9, 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 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.
3. A listed conditional use that does not meet the applicable conditional use standards may apply for approval as a Special Exception.

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

**Section 3.3.6. Administrative Deviations**

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

B. Scope of Administrative Determinations. Administrative Deviations may be granted for the following:

1. Setback requirements where the setback is not decreased by more than 10% in the applicable zoning district and the encroachment does not extend into an easement, right-of-way, or is an encroachment over the property line for a zero-lot line site.
2. Reduction in the overall required parking by 5%.

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- 801
- 802 3. Landscaping or buffers. Up to a 10 % reduction in the width of required buffers or the required
- 803 amount of trees and shrubs.
- 804
- 805 4. Preservation of Vegetation. A deviation from the following regulations to accommodate the
- 806 preservation of existing native specimen tree(s):
- 807
- 808 a. Up to five (5) percent of a required setback; or
- 809 b. Up to five (5) percent of the required parking spaces.
- 810
- 811 5. Minor sign deviations as set forth in Article 6 of this code.
- 812
- 813 C. Review Criteria. An Administrative Deviation may be approved based on the following criteria:
- 814
- 815 1. The proposed deviation will not result in development that is inconsistent with the intended
- 816 character of the applicable zoning district.
- 817
- 818 2. The normally required code standard(s) is determined to significantly inhibit development of the
- 819 site.
- 820
- 821 3. The deviation will not impede the ability of the project or site to adequately provide for service
- 822 areas and other development features for the project.
- 823
- 824 4. Access for service and emergency vehicles will not be impeded.
- 825
- 826 5. The proposed deviations will result in a building and site design of equal or superior quality.
- 827
- 828 D. Effective date of approval. A deviation shall take effect upon approval.
- 829
- 830 E. If an Administrative Deviation is not approved, the applicant may subsequently apply for a Variance.
- 831

832 **Section 3.3.7. Site Development Plans**

833

- 834 A. Review Process. The procedures contained in this Section are applicable to all projects involving land
- 835 development (other than subdivisions), including those without structures such as parking lots, and
- 836 which involve the construction of any facility. Also included are projects which involve the alteration
- 837 or conversion of existing structures or the change of use of a structure where the site or structure does
- 838 not meet the current standards or criteria of these regulations. The provisions of this Section, where
- 839 appropriate, are to be applied to on-site and off-site development activity.
- 840
- 841 1. Upon successfully addressing departmental comments, the applicant shall obtain approval from
- 842 each of the relevant reviewers accepting the plans.
- 843
- 844 2. Upon completing the sign off, the departmental reviewer may add minor conditions providing such
- 845 conditions shall not conflict with any land development code requirement and all conditions are
- 846 agreed to by the applicant.

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- 847
- 848 3. All conditions shall contain a specified time period for compliance.
- 849
- 850 4. Minor conditions are defined as those conditions which are exclusive of any details which may be
- 851 shown on the plans, such as permits, submittal of easements, affidavits, or other documentation.
- 852
- 853 5. Minor condition may be considered a change on the site development plan to correct a
- 854 typographical error or to provide a clarification.
- 855
- 856 6. The Development Services Manger shall approve the application provided all departmental
- 857 reviewers have accepted the plans or accepted the plans with conditions.
- 858
- 859 7. Exceptions from applicability of this Section are:
- 860
- 861 a. Single-family dwellings;
- 862 b. Duplex units on existing platted lots;
- 863 c. Subdivision improvements as provided for in Article 9 of this code; and
- 864 d. All projects involving construction by or on-behalf of the City, provided such development
- 865 meets the minimum requirements for development as determined by all affected agencies and
- 866 approved by the City Manager.
- 867
- 868 B. Criteria. The Development Services Manager may approve, approve with conditions, defer, or deny
- 869 the application, or if acting in an advisory capacity, make a recommendation after consideration and
- 870 review of the following:
- 871
- 872 1. The development, as proposed, conforms to the comprehensive plan, and is consistent with the
- 873 recommendations of any applicable neighborhood or area studies or master plans which have
- 874 been approved or accepted by the City Council, and is otherwise compatible with the existing area
- 875 or neighborhood development;
- 876
- 877 2. The proposed development site plans, landscape plans, engineering plans, and other required
- 878 plans conform or will conform with all applicable City codes; the Engineering Design Standards,
- 879 and design standards as set forth in this code;
- 880
- 881 3. The development will efficiently use or not unduly burden water, sewer, solid waste disposal,
- 882 education, recreation, or other necessary public facilities which have been constructed or planned
- 883 and budgeted for construction in the area;
- 884
- 885 4. The development will efficiently use or not unduly burden or affect public transportation facilities,
- 886 including mass transit, public streets, roads, and highways which have been planned and
- 887 budgeted for construction in the area, and if the development is or will be accessible by private
- 888 or public roads, streets, or highways; and
- 889
- 890 5. The development provides necessary and adequate vehicular circulation, pedestrian access,
- 891 ingress and egress, and is configured in a manner to minimize hazards and impacts on adjacent
- 892 properties and adjacent rights-of-way.

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C. Modifications, deletions, and revisions.

1. Revisions or modifications to approved site development plans while under construction which do not increase the gross square footage of a building or adversely impact compliance with the approved site development plan, and would not alter the required infrastructure and improvements necessary to serve the site, may be approved in writing by the Development Services Manager provided such additions or modifications fully conform to all existing City regulations. Prior to final acceptance of the site, as-built drawings shall be submitted indicating such revisions or modifications prior to site acceptance.
2. Changes to existing development. Changes to existing site development plans shall not require development review when the site proposed for development meets the following criteria:
  - a. All infrastructure exists on the site to service the site;
  - b. Site engineering is not required for the development of the site;
  - c. Parking meets all parking code requirements or no more than five parking spaces are being added to the site;
  - d. The proposed development does not significantly alter the traffic circulation system or significantly change the use of property;
  - e. The existing site is in compliance with the approved landscape plan for the site; and
  - f. The existing site meets all storm water management requirements.

G. Site Improvement Permits. The Development Services Manager shall be authorized to approve, approve with conditions, or deny a site improvement permit for the following improvements and installations:

1. Full commercial and residential demolition;
2. Parking lot seal coating or re-striping of existing parking lots;
3. Underground fire line installation;
4. Utility service relocation;
5. Residential relocation of existing storm drain;
6. Land Clearing and Fill;
7. Backflow prevention; and
8. Spot dredging.

**Section 3.3.8 Temporary Use Permits**

- A. Purpose and Intent. To authorize the temporary uses and activities which do not exceed specific time frames:

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B. General Standards.

1. Only those uses that are listed below or otherwise approved as temporary uses in Article 5, may be allowed as temporary uses.
2. Each temporary use shall be evaluated by the Community Development Department for compliance with the standards and conditions set forth in the LDC and the applicable zoning district. Special event uses are evaluated by the Parks and Recreation Department.
3. A temporary use permit shall take effect at the time of permit issuance and is in effect only for the specific time-period established in the temporary use approval.

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

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

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

1. Temporary storage
2. Seasonal sales
3. Construction trailers
4. Construction staging areas and post disaster debris staging
5. Temporary sales offices
6. Temporary habitable structures



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7. Special Events

**Section 3.3.9. Temporary storage**

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 § 5-2 of the City of Cape Coral Code of Ordinances.

B. General Requirements:

1. No temporary storage container may be placed in one or more parking spaces if the required number of parking spaces is reduced below the minimum number of spaces required for the site.
2. No temporary storage container shall block or reduce access to fire lane(s), handicapped parking area(s), or drainage facilities or structures, including swales and catch basins.
3. Temporary storage containers shall not be placed in an easement or in any area designated as a buffer.
4. The maximum size of temporary storage containers shall not exceed ten feet in width, ten feet in height, or 40 feet in length.
5. Non-residential zoning districts. Temporary storage container permits are valid for 30 days. A maximum of two temporary storage container permits may be issued for a property or, in the case of multi-use or multi-unit properties, for each business or commercial enterprise located on the property in any calendar year. Temporary container permits may run consecutively without any minimum period required to elapse between the issuance of permits.

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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 3.3.10 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 Preservation, Public, others ?. With the prior approval of the City Manager, 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 § 3.4.1B.
- C. In R-3, Multi-Family Residential zoning districts, the City Manager 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 Manager may place condition(s) on the approval of a seasonal sale in an R-3, Multi-Family Residential zoning district, if he or she determines that such condition(s) are necessary in order to protect the surrounding neighborhood from adverse impacts which would otherwise result from such seasonal sale.

**Section 3.3.11 Construction trailers**

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

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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.
  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 3.3.12 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.

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1123 4. Fencing required

1124  
1125 5. No structures other than a permitted construction trailer may be placed on the property.

1126  
1127 6. No outdoor lighting is permitted for any staging area in a residential zoning district.

1128  
1129 B. Construction staging areas. Construction staging areas are a permitted activity in all zoning districts,  
1130 provided the staging area is on the same parcel where construction activity is authorized by a valid  
1131 building permit. Construction staging areas on vacant, adjoining, or nearby parcels is prohibited.

1132  
1133 C. Post disaster debris staging areas. Post disaster debris staging areas are allowed in all zoning  
1134 districts on sites designated by the City for such activity.

1135  
1136 D. Post disaster construction staging. Staging areas for post disaster reconstruction efforts are allowed  
1137 in all non-residential zoning districts. Post disaster construction staging is allowed in residential  
1138 zoning districts as a (special exception/conditional) use.

1139  
1140 **Section 3.3.13 Temporary sales offices**

1141  
1142 A. Temporary sales offices are mobile structures used only for the sale or lease of units within that  
1143 development. For the purpose of this section, **UNITS TO BE LOCATED WITHIN THE**  
1144 **DEVELOPMENT** shall mean residential, non-residential, or mixed use habitable space or leasable  
1145 floor area, whether occupying all of a building or individual areas within a building including  
1146 residential units, residential or non-residential units, individual units in a multi-unit non-  
1147 residential development, or freestanding residential or non-residential structures.

1148  
1149 B. Requirements for a temporary sales office. The following requirements must be met prior to the  
1150 approval of a temporary sales office:

1151  
1152 1. Connection to sewer and water is required. If sanitary sewer and potable water are unavailable  
1153 to the site, bottled water and portable sanitary facilities may be utilized until such time as  
1154 sanitary sewer and potable water are available. A temporary sales office shall be connected to  
1155 such facilities within 90 days of availability or within 90 days of the permitted temporary sales  
1156 office, whichever is less.

1157  
1158 2. The temporary sales office shall meet the setbacks of the zoning district in which it is located.

1159  
1160 3. A temporary sales office shall not be used as a place of habitation or abode by any person(s),  
1161 and shall not be used or occupied for business, office, or other purpose(s) at any time except  
1162 between the hours of 7:00 a.m. and 9:00 p.m.

1163  
1164 4. A minimum of three paved off-street parking spaces shall be provided for the temporary sales  
1165 office.

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- 1167 5. The entrance to the site on which the temporary sales office is located shall consist of a city  
1168 approved driveway or construction entrance. Any impervious area added for the temporary  
1169 sales office shall be subject to review and approval by the city.  
1170
- 1171 6. The base of any temporary sales office shall be fully obscured by landscaping and skirting.  
1172 Shrubs must be planted on 30-inch centers and have a minimum planted height of two feet.  
1173 The type of irrigation, if applicable, must also be provided on the plan. Erosion shall be  
1174 minimized and prevented to the extent practicable around any disturbed area.  
1175
- 1176 7. The maximum duration of the permit shall not exceed one year. The Director may extend  
1177 permits for up to six months each, based upon factors that include:  
1178
- 1179 a. Size of the project.  
1180 b. Number of lots or units in the development remaining to be sold or leased.  
1181 c. Effect that the extension would have on the surrounding properties.  
1182 d. Developer's need for an extension and efforts, if any, the developer has put forward  
1183 toward completion of the development (e.g., effort to complete construction in a timely  
1184 manner, delays beyond the reasonable control of the developer, etc.).  
1185
- 1186 8. A temporary sales office shall be removed no later than the date the development is completed  
1187 or within 30 days after notice by the city that the application for development has been denied,  
1188 whichever is applicable.  
1189
- 1190 C. Permit application and submittal requirements. A permit shall be required for a temporary sales  
1191 office. In order to obtain a permit for the use of a structure for a temporary sales office, the  
1192 applicant shall submit the following to the Department of Community Development:  
1193
- 1194 1. A scaled drawing of the site, identifying the location of the temporary sales office with  
1195 dimensions. Construction plans shall also be submitted.  
1196
- 1197 2. The names of the property owner and the operator of the temporary sales officer. In the  
1198 event the operator is different from the property owner, written and notarized consent from  
1199 the property owner must be submitted. Such written consent shall be revocable. In the event  
1200 such consent is revoked, the temporary sales office shall be removed within 30 days.  
1201
- 1202 3. The length of time the temporary mobile sales office is proposed for the site.  
1203
- 1204 4. The description of potable water and sanitary facilities that will be available for the  
1205 temporary office.  
1206
- 1207 D. Inspection by city officials. In order to ensure compliance with all applicable laws and regulations,  
1208 the temporary sales office shall be held open for reasonable inspection, without court order, by  
1209 employees or agents of the City of Cape Coral or any other duly authorized governmental agency.  
1210

**Section 3.3.14 Temporary Habitable structures.**

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- 1213 A. Purpose and intent. The purpose of this ordinance is to provide a means by which residents,  
1214 business owners, governmental agencies, and medical facilities are able to live and conduct  
1215 business on the same site as their damaged structure using temporary housing and temporary  
1216 business structures. When disasters result in significant destruction rendering homes and  
1217 businesses uninhabitable, temporary housing and temporary business structures will provide  
1218 residents and businesses with the ability to quickly resume normal activities during the restoration  
1219 of their permanent structures.
- 1220
- 1221 B. Definitions. Terms used in this subsection shall have the meanings as defined in Article X,  
1222 Definitions, unless the context clearly indicates or requires a different meaning.
- 1223
- 1224 C. Declaration of habitable structure emergency. Following a disaster, the city shall evaluate the  
1225 effect of the disaster on the public health, safety, and welfare. If the City Council finds that the  
1226 disaster has negatively affected residential housing or business structures in the city by a  
1227 significant degree, the City Council may, by a majority vote, declare the existence of a habitable  
1228 structure emergency. Upon the declaration of a habitable structure emergency by vote of the  
1229 City Council, the provisions of this subsection shall become effective. The habitable structure  
1230 emergency shall identify the disaster which created the emergency situation, and may be  
1231 declared for either a specified period of time or an indefinite period of time. If the emergency is  
1232 for an indefinite period of time, the emergency shall continue until City Council, by a majority  
1233 vote, terminates the habitable structure emergency.
- 1234
- 1235 D. Habitable structure emergencies. During a habitable structure emergency, the city will allow, in  
1236 accordance with the provisions set forth herein, the use of temporary structures. Temporary  
1237 residential structures and temporary business structures must be approved by the city with a  
1238 temporary placement permit. Application and issuance criteria for a temporary placement permit  
1239 are as set forth below.
- 1240
- 1241 E. Temporary business structures may be used for business owners to provide a means for a business  
1242 to remain open during the time the permanent business structure is being repaired or replaced.  
1243 Temporary business structures may be used to provide temporary facilities for governmental uses,  
1244 critical public facilities, charitable, religious, or educational institutions that have been rendered  
1245 uninhabitable. The regulations for temporary business structures shall apply to temporary business  
1246 structures used for governmental uses, critical public facilities, charitable, religious, or educational  
1247 institutions. For these institutions, the habitable structure regulations shall apply; however, the  
1248 Building Official may waive any regulations when strict enforcement may preclude them from  
1249 carrying out their normal or emergency functions. Critical facilities shall be limited to the following:
- 1250
- 1251 1. Federal, state, regional, or local government facilities;
  - 1252
  - 1253 2. State, county, or local emergency operations centers;
  - 1254
  - 1255 3. Police, fire, and emergency medical facilities;
  - 1256
  - 1257 4. Radio and television stations;
  - 1258

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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 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.



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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 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.

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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.
  - 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.

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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.
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

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residential or business structure must then be removed or placed in proper storage on the property within 30 days. Failure to remove or properly store the temporary residence or business structure constitutes a violation subject to the penalty imposed herein.

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

**Section 3.3.15 Special Events.**

- A. Special events in the city are administered and permitted by the Parks and Recreation Department.
- B. Application and general requirements. Special events permits may be issued provided the following requirements are met:
1. A completed, signed, and notarized application shall be submitted no less than 60 days prior to the opening of the event. The application shall the name and address of each applicant sponsoring the special event, the dates, times, and specific details of the event, and a list of all special events that the applicant has sponsored in the City for the past three years. Exceptions to the 60-day requirement may be approved by the Director of Parks and Recreation based on the size, duration, or nature of the event. The city reserves the right to verify the applicant's previous history of sponsoring special events with other jurisdictions.
  2. A refundable clean-up deposit is submitted. The property shall be cleaned within 48 hours of the close of the event and returned to substantially the same condition that existed just prior to the start of the event or better. The clean-up deposit will be refunded upon satisfactory inspection of the property by the city after the event closes. If the property is not returned to substantially the same condition that existed just prior to the start of the event, or better, the city, in its sole discretion, may utilize the clean-up deposit to do so and refund the remainder, if any, to the applicant.
  3. A site plan of the event venue and surrounding property shall be submitted. The site plan shall show the layout of all activities, such as stages, equipment, including location(s) where sound amplification equipment, if any, will be allowed, amusement rides, animal displays, etc., and all support facilities including egress and ingress locations, parking, refuse collection, sanitation, and lighting. The site plan shall also identify the presence of any environmentally sensitive issues including eagles, burrowing owls, tortoises, osprey, etc.
  4. If the applicant does not own the property for the special event or associated parking, a signed and notarized letter of permission from the property owner is required, along with a release and indemnification agreement in a form accepted by the City Attorney. If the applicant intends to transport patrons to the special event from a specified parking area, complete details including all traffic routes to be utilized shall be submitted to the city for approval.
  5. Insurance requirements.

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- 1488 a. Certificates of insurance for all properties used for the event must be submitted to the  
1489 Parks and Recreation Department for approval by the City Risk Manager no less than 21  
1490 days prior to the event.
- 1491
- 1492 b. Applicants and vendors shall have commercial and general liability insurance, including  
1493 coverage for independent contractors, premises and operations, contractual liability,  
1494 products and completed operations, personal injury, and property damage. Insurance  
1495 coverage shall be no less than \$1,000,000 combined single limit for bodily injury and  
1496 property damage and no less than \$1,000,000 for liquor liability, if applicable.
- 1497
- 1498 c. Vendors shall also have motor vehicle liability insurance of no less than \$1,000,000 per  
1499 vehicle and worker's compensation coverage as required by statute.
- 1500
- 1501 d. The City of Cape Coral shall be named as additional insured. Certificates of insurance shall  
1502 show the City of Cape Coral as the certificate holder.
- 1503
- 1504 6. All applicable city ordinances and building, fire, and electrical codes shall be complied with.
- 1505
- 1506 7. Most events shall require off-duty City of Cape Coral police officers to be hired for the  
1507 duration of any event to include one hour before opening and one hour after closing. The  
1508 Police Chief shall determine the exact number of officers required, if any, based upon the  
1509 size and nature of the event and past experience with similar events. The cost for the off-  
1510 duty detail shall be set using the present rate charged by the Police Department which shall  
1511 be paid by the applicant prior to the issuance of the permit. All applicants must comply with  
1512 any rules or regulations imposed by the Police Chief which are consistent with this section.
- 1513
- 1514 8. Most events shall require off-duty City of Cape Coral firefighters or paramedics, to be hired  
1515 for the duration of any event to include one hour before opening and one hour after closing.  
1516 The Fire Chief shall determine the exact number of firefighters or paramedics required, if  
1517 any, based upon the size and nature of the event and past experience with similar events.  
1518 The cost for the off-duty detail shall be set using the present rate charged by the Fire  
1519 Department which shall be paid by the applicant prior to the issuance of the permit. All  
1520 applicants must comply with any rules or regulations imposed by the Fire Chief which are  
1521 consistent with this section. In the event the Fire Chief determines that special equipment  
1522 such as all terrain vehicles, trailers, fireboats, fire and rescue assets, and appropriate  
1523 personnel for the special equipment are necessary, the city reserves the right to request  
1524 reimbursement for all or part of the discretionary cost from the applicant.
- 1525
- 1526 9. No open flame or other device emitting flames or fire shall be used in any tent or air  
1527 supported structure while open to the public.
- 1528
- 1529 10. All equipment including tents, stages, amusement rides, utility areas, ingress and egress  
1530 points, and cooking areas shall be inspected and approved by city fire inspectors or state  
1531 officials, if applicable, prior to the opening of the event. If applicable, inspection certificates  
1532 and annual permits as required by the State of Florida, shall be submitted to the city prior to  
1533 the opening of the event. All equipment or amusement rides, other than those which are

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patron-operated or controlled, shall only be operated by persons over 18 years of age who are employed by the applicant and who are thoroughly familiar with the operation of said equipment or amusement rides. The operator of such equipment or amusement rides shall be in the immediate vicinity of the operating controls at all times during the operation of the equipment or amusement rides and no unauthorized person shall be permitted to handle the controls during operation.

11. Any person, entity, group, or organization engaging in speech, expression, or assembly, which is protected by the First Amendment of the United States Constitution or by Article I, Section 4 of the State of Florida Constitution, may do so during a Special Event, subject to the following reasonable time, place, and manner regulations.
  12. If sound amplifying equipment is present on public or private property at the special event, the Director of Parks and Recreation shall establish one or more designated areas where such amplified sound may occur. If amplified sound is not permitted for the special event, all amplified sound shall be prohibited; however, nothing in this regulation shall serve to prohibit protected speech, expression, or assembly utilizing non-amplified, reasonable sound. For purposes of this paragraph, amplified sound caused by the police or fire departments of the city in the performance of their official duties, and public background sound, shall not be considered amplified sound so as to allow others to use sound amplifying equipment.
  13. The Director of Parks and Recreation shall be responsible for the provisions of this section, department rules and regulations, and city ordinances. No action shall be taken to enforce this section until a warning to cease such a violation has been issued by a person authorized to enforce this section and the violator continues such violation.
  14. No person shall be permitted into, or remain on, private property covered by any special event permit for an event open to the public without the consent of the permittee.
  15. If a special event is open to the public only upon a payment of an entry fee or charge, no person shall be permitted into the special event without first paying the entry fee or charge.
  16. No person shall unreasonably hamper, obstruct, impede, or interfere with any person, entity, group, or organization hosting a permitted special event.
  17. All requirements of this section are subject to modification or waiver by the City Council based upon the size, duration, nature of the event, and the city's involvement.
- C. Review Criteria. In determining whether a permit shall be issued, the Director of Parks and Recreation shall consider certain criteria including:
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;

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- 1580
- 1581 3. Other events previously scheduled during the same time period within the city; and
- 1582
- 1583 4. If the applicant has been adjudicated guilty of violating any provision of this section. Any
- 1584 adjudication may constitute grounds for denial of future special events permits by the city.
- 1585

1586 D. Permit Decision.

1587

- 1588 1. The Director of Parks and Recreation may, in his or her sole discretion, deny the applicant a
- 1589 permit for the special event within the City of Cape Coral.
- 1590
- 1591 2. The Director of Parks and Recreation shall have the authority to designate one or more areas
- 1592 during any Special Event for specific activities and to prohibit other activities within designated
- 1593 areas. Designated areas shall be posted when such posting is appropriate.
- 1594
- 1595 3. Order to cease operation. If the Director of Parks and Recreation Department determines
- 1596 that proper provisions have not been made for the protection of the public health, safety, or
- 1597 welfare he or she may issue an order to cease operating said special event until such time as
- 1598 satisfactory corrective action has been taken.
- 1599

1600 E. Violations and Penalties.

1601

- 1602 1. Intentional underestimation of the expected number of persons attending the event or
- 1603 failure to comply with any provision of this section, shall constitute a violation of this section,
- 1604 and shall subject the applicant to the code enforcement provisions and procedures proved
- 1605 in §§ 2-81 through 2-96 of the City of Cape Coral Code of Ordinances including any and all
- 1606 provisions that allow the city to seek relief as otherwise provided by law.
- 1607
- 1608 2. Penalty. A violation of this section shall be punishable by a minimum fine of \$100 and a
- 1609 maximum fine of \$500, in addition to the taxation of any court costs, or imprisonment for a
- 1610 term not to exceed 60 days, or by both a fine and imprisonment.
- 1611

1612 **CHAPTER 4. SPECIFIC REVIEW PROCEDURES - QUASI-JUDICIAL PERMITS AND APPROVALS**

1613

1614 **Section 3. 4.1 General Requirements**

1615

1616 Effective Date. All quasi-judicial permits shall take effect on the date the Hearing Examiner Order

1617 approving the variance is recorded in the public record.

1618

1619 **Section 3.4.2 Variances.**

1620

1621 A. General.

1622

- 1623 1. A variance may be sought from any bulk, area, or dimensional standard contained in Article 4,
- 1624 Zoning Districts or Article 5, Development Standards of the LDC.
- 1625

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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.

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

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
2. That the special conditions and circumstances do not result from the actions of the applicant;
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings, or structures in the same zoning district;
4. That literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these regulations and would cause or impart unnecessary and undue hardship on the applicant;
5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;
6. That granting the variance will not change the use to one that is not permitted in the zoning district or different from other land in the same district; and
7. That the granting of the variance will be in harmony with the general intent and purpose of these regulations, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

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

**Section 3.4.3. Special Exceptions.**

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

B. General.

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



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2. The Hearing Examiner may prescribe appropriate conditions and safeguards in conformity with the special exception use requirements. All such conditions shall be part of the terms under which the special exception is granted.
  3. A special exception shall be deemed abandoned if:
    - 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 3.4.4. 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.;

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- c. Letter of approval from affected telephone companies;
- 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 3.4.5. 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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- 1809 5. The characteristics of the proposed rezone area are suitable for the uses permitted in the  
1810 proposed zoning district; and  
1811  
1812 6. Whether a zoning district other than the district requested will create fewer potential adverse  
1813 impacts to existing uses in the surrounding area.  
1814  
1815 C. Effective date of approval. A rezone shall take effect upon City Council adoption of the ordinance  
1816 approving the rezone.  
1817  
1818 D. New application after denial. No application for a rezone which has been previously denied by the  
1819 City Council shall be accepted for at least one year after the date of denial. An application to rezone  
1820 property to a designation that is different than the designation which was denied by the City  
1821 Council, will be accepted and considered without consideration of time since the previous  
1822 application was denied.  
1823

1824 **Section 3.4.6. Planned Unit Developments (PUD)**

- 1825  
1826 A. General.  
1827  
1828 1. A Planned Unit Development (PUD) is an area designed for development as a cohesive unit,  
1829 where uses and innovations in design and layout of the development provide public benefits  
1830 when compared to standard zoning or uniform lot and block subdivision patterns and design  
1831 features.  
1832  
1833 2. In a PUD, the various land use elements are designed so that they interrelate with each other.  
1834 The boundary between a PUD and adjacent land area(s) requires particular attention to ensure  
1835 transition and that land use patterns are compatible.  
1836  
1837 B. Purpose and Intent. The purpose and intent of a PUD are to:  
1838  
1839 1. Innovation in Design. To encourage innovations in residential, commercial, mixed-use, and  
1840 industrial development so that the needs of the population may be met by greater variety in  
1841 type, design and layout of buildings and land uses and by the conservation and more efficient  
1842 use of the space.  
1843  
1844 2. Appropriate Land Use. To promote the most appropriate use(s) of the land.  
1845  
1846 3. High Quality Development. To improve the design, character, and quality of new development.  
1847  
1848 4. Infrastructure. To facilitate the adequate and efficient provisions of roads and utilities.  
1849  
1850 5. Increased Compatibility. To achieve compatibility with surrounding neighborhoods and  
1851 developments.  
1852

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6. Provision of Open Space. To preserve open space as development occurs.
7. Clustering of Uses. To provide for necessary commercial, recreational, and public facilities that are conveniently located to housing.
8. Increased Flexibility. To provide for flexibility in design for new development and future redevelopment.
9. Comprehensive Plan. To achieve the goals of the Comprehensive Plan.
10. To provide a method for previously approved Planned Development Projects to continue to develop under the terms of an approved PDP Development Order and to allow modification to existing PDP approvals under the PUD procedures.

C. Minimum Parcel Size. The minimum parcel size for a PUD is:

1. Non-residential, mixed use, or multi-family PUD. One acre.
2. All other PUDs. Three acres.

D. PUD approval steps. The PUD review [and approval](#) process includes:

1. A rezone to the PUD zoning district, which establishes the densities, intensities, and permitted uses within the PUD; and
2. A Master Concept Plan (MCP), which establishes the design, layout, and dimensional standards of the PUD.

E. Application and submittal requirements. Application and submittal requirements for a PUD are established in Sections 3.1.4 through 3.1.8 of this Article. In addition, a PUD requires:

1. An application for a rezone to the PUD zoning district; and
2. A Master Concept Plan application.
3. Submittal of the specific PUD application requirements listed in subsection H., below.

A PUD application for parcels 10 acres or larger may apply for a rezone to the PUD zoning district without submitting a MCP for concurrent review and processing.

F. Preapplication conference required. A pre-application conference shall be held with the Community Development Department prior to the submittal of a PUD. The applicant shall indicate the requested PUD zoning district and a sketch of the PUD Master Concept Plan, if applicable.

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- G. Specific PUD Submittal Requirements. A PUD application shall include the following:
1. A Letter of Intent, including:
    - a. Reasons the PUD procedure is more desirable than a conventional plan;
    - b. General site description including acreages; and
    - c. General project description.
  2. A PUD Master Concept Plan indicating:
    - a. Location of the uses within the site;
    - b. Vehicle circulation patterns and points of access;
    - c. Pedestrian and bicycle circulation with links to other external path systems;
    - d. Open space plan; and
    - e. Landscape and buffer plans.
  3. Sample formation of HOA or other organization to operate and maintain open space and other on-site public or private improvements.
  4. Phasing plan, if applicable.
- H. PUD Zoning Districts. Each PUD shall be rezoned to one of the following designations, based on proposed development:
- RPUD - Residential PUD  
CPUD - Commercial PUD  
IPUD - Industrial PUD  
MXPUD - Mixed Use PUD  
PFPUD - Public Facilities PUD
- The proposed PUD zoning district must meet the criteria for rezones as set forth by this Code.
- I. Review Standards and Criteria.
1. Every PUD shall be in conformance with the City Comprehensive Plan. The maximum density or intensity within any PUD shall be consistent with the future land use designation of the site as determined by the Comprehensive Plan.
  2. Specific uses, densities, and intensities for each PUD are established in the PUD rezone ordinance. The approved uses, densities, and intensities for a PUD shall take precedence over other standards and requirements in these regulations. The uses approved in a PUD shall be permitted uses.

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- 1940 3. Specific bulk, area, and dimensional standards for each PUD are approved in the MCP for a PUD  
1941 and shall take precedence over the standards and requirements in these regulations for  
1942 development that is not within an approved PUD. Elements to be evaluated for a PUD shall  
1943 include:
- 1944
- 1945 a. Appropriateness of the proposed or density or intensity of the development;
- 1946 b. Internal and external compatibility of the development and surrounding uses;
- 1947 c. Transition and separation between surrounding uses;
- 1948 d. Vehicular and pedestrian circulation patterns;
- 1949 e. Arrangement and functionality of open space;
- 1950 f. Access points;
- 1951 g. Public amenities, if applicable;
- 1952 h. Additional amenities that will serve the project; and
- 1953 i. Details and design of internal and external buffers.
- 1954
- 1955 4. Open Space.
- 1956
- 1957 a. For all PUDs except for IPUDs, a minimum of twenty-five percent of the total land area shall
- 1958 consist of common open space. The City may consider a request by the applicant for less
- 1959 than twenty-five percent common open space when deemed appropriate because of size,
- 1960 location, or nature of the proposed development.
- 1961 b. The amenities or off-site improvements shall be utilized by the City or developed by the
- 1962 applicant to mitigate the reduction of open space or to fulfill the recreational needs of the
- 1963 City.
- 1964 c. Areas that Do Not Count as Open Space. Parking and loading areas, streets, and rights-of-way
- 1965 shall not count toward usable open space.
- 1966 d. Areas that Count as Open Space. Water bodies, surface water retention areas, preservation
- 1967 areas, and riparian areas that are preserved as open space shall count towards this minimum
- 1968 standard, even when they are not usable by or accessible to the residents of the PUD. All
- 1969 other open space shall be conveniently accessible from all occupied structures in the PUD.
- 1970 e. Improvements Required. All common open space and recreational facilities shall be shown
- 1971 on the PUD Plan and shall be constructed and fully improved according to the development
- 1972 schedule established for each development phase of the PUD.
- 1973 f. Landscaping along Sidewalks. All sidewalks within a PUD must be shaded by canopy trees.
- 1974 The area used for shading the sidewalks can be considered as part of the minimum open
- 1975 space requirement.
- 1976 g. Maintenance of Open Space. All open space shall continue to conform to its intended use,
- 1977 as specified on the PUD Master Concept Plan. To ensure that public open space identified in
- 1978 the PUD will be used as open space, restrictions, easements, or covenants shall be recorded
- 1979 in deeds or the open space areas may be dedicated to the public to ensure their
- 1980 maintenance and to prohibit the division of any public open space. Any subdivision of land
- 1981 will require a Property Owners Association (POA) or Home Owners Association (HOA) to
- 1982 ensure that open spaces within a PUD are maintained. The City is not required to accept
- 1983 dedication of open space areas.
- 1984

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- 1985 7. PUD Perimeter Buffers. The boundary between a PUD and adjacent land uses shall be  
1986 landscaped with a buffer that has sufficient width and shall include screening to ensure a proper  
1987 transition and increase compatibility between land uses. The buffer shall be approved by City  
1988 Council.
- 1989
- 1990 8. Street Standards. All streets, roads, and drive aisles shall be designed and constructed in  
1991 conformance with the City's Engineering and Design Standards.
- 1992
- 1993 9. Phasing. When a PUD is developed in phases, a proportional amount of the open space and  
1994 recreations areas shall be included in each phase, in order to comply with the open space  
1995 requirements of this chapter at the completion of each phase of the development.
- 1996
- 1997 J. Master Concept Plan and concurrent Preliminary Subdivision review. The approved Master Concept  
1998 Plan may be used for preliminary subdivision approval, as defined in Article \_\_\_\_, provided  
1999 required details and information for preliminary subdivision review are included in the MCP. Review  
2000 of a preliminary plat, as provided in Section \_\_\_\_, may occur simultaneously with review of the  
2001 PUD rezone and MCP, if requested by the applicant.
- 2002
- 2003 K. Amendments to Planned Unit Developments.
- 2004
- 2005 1. Administrative Amendments. Amendments to an approved PUD may be approved  
2006 administratively if they meet the following criteria:
- 2007
- 2008 a. Density or intensity is increased by less than ten percent.
- 2009 b. Open space is not decreased by more than five percent.
- 2010 c. There are no changes to any condition of approval.
- 2011 d. There is no change in permitted uses or types of structures.
- 2012 e. Dimensional standards are changed by no more than ten percent.
- 2013
- 2014 2. Review Standards for amendments. An approved PUD Master Concept Plan may be amended if  
2015 the applicant demonstrates that the proposed modification:
- 2016
- 2017 a. Is consistent with the efficient development and preservation of the entire PUD;
- 2018 b. Does not affect in a substantially adverse manner either the enjoyment of the land abutting  
2019 upon, adjoining or across a street from the planned unit development;
- 2020 c. Is not granted solely to confer a special benefit upon any person;
- 2021 d. Does not contain proposed uses that detract from other uses approved in the PUD;
- 2022 e. Does not contain an open space plan that differs substantially in quantity or quality from the  
2023 originally approved plan; and
- 2024 f. Contains streets and utilities that are coordinated with planned and existing street and  
2025 utilities for the remainder of the PUD.
- 2026
- 2027 3. Amendments that require City Council Approval. Any amendment to a PUD that does not meet  
2028 the criteria in subsection 1 through 2, above must be approved by the City Council.



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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.
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**

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- 2074 A. Purpose of Amendments. Future Land Use Map amendments shall be considered for the following  
2075 reasons:  
2076
- 2077 1. The amendment implements the goals, objectives, and policies of the Comprehensive Plan.
  - 2078
  - 2079 2. The amendment promotes compliance with changes to other city, state, or federal regulations.
  - 2080
  - 2081 3. The amendment results in compatible land uses within the a specific area.
  - 2082
  - 2083 4. The amendment implements findings of reports, studies, or other documentation regarding
  - 2084 functional requirements, contemporary planning practices, environmental requirements, or
  - 2085 similar technical assessments.
  - 2086
  - 2087 5. The amendment is consistent with the City's ability to provide adequate public facilities and
  - 2088 services.
  - 2089
  - 2090 6. The amendment prepares the City for future growth, such as reflecting changing development
  - 2091 patterns, identifying demands for community services, reflecting changes necessary to
  - 2092 accommodate current and planned growth in population, and facilitating community
  - 2093 infrastructure and public services.
  - 2094
- 2095 B. Manner of Initiation. Applications for a Future Land Use Map Amendment (FLUMA) may be initiated  
2096 in the following manner:  
2097
- 2098 1. The City Council by its own motion;
  - 2099
  - 2100 2. The Planning and Zoning Commission by its own motion;
  - 2101
  - 2102 3. The City Manager for City initiated requests; or
  - 2103
  - 2104 4. By a petition of one or more property owners of at least 51% of the property owners of an area
  - 2105 proposed for amendment.
  - 2106
- 2107 C. Review Criteria. Proposed future land use map amendments shall be reviewed in accordance with the  
2108 requirements of Chapter 163, Florida Statutes, and the following criteria:  
2109
- 2110 1. Whether the proposed future land use amendment is consistent with the goals, policies, and
  - 2111 future land use designations of the City Comprehensive Plan;
  - 2112
  - 2113 2. The amendment protects the health, safety, and welfare of the community;
  - 2114
  - 2115 3. The proposed amendment and all of the consistent zoning districts, and the underlying permitted
  - 2116 uses, are compatible with the physical and environmental features of the site
  - 2117
  - 2118 4. The range of zoning districts and all of the allowed uses in those districts are compatible with
  - 2119 surrounding uses in terms of land suitability or density and that a change will not result in negative

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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.

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.

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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.
5. The amendment promotes compliance with changes to other city, state, or federal regulations.
6. The amendment adds district uses that are consistent with the character of the current range of allowed uses.
7. The amendment results in providing compatible land uses within Cape Coral.
8. The amendment implements findings of reports, studies, or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assessments.

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

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

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- 2210 C. Review Criteria. Proposed LDC text amendments shall be reviewed in accordance with the following  
2211 criteria:  
2212
- 2213 1. Whether the proposed LDC text amendment is consistent with the goals, policies, and future land  
2214 use designations of the City Comprehensive Plan;  
2215
  - 2216 2. The amendment results in compatible land uses within a zoning designation;  
2217
  - 2218 3. The amendment protects the health, safety, and welfare of the community; or  
2219
  - 2220 4. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.  
2221
- 2222 D. Effective date of approval. The effective date of a LDC text amendment shall take place upon  
2223 adoption.  
2224

<b>Item Number:</b>	6.C.
<b>Meeting Date:</b>	1/10/2018
<b>Item Type:</b>	PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

**AGENDA  
REQUEST  
FORM**  
CITY OF CAPE  
CORAL



**TITLE:**

Article 13 Definitions 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:**

**LEGAL REVIEW:**

**EXHIBITS:**

**PREPARED BY:**

Division- Department-

**SOURCE OF ADDITIONAL INFORMATION:**

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Article 13 Definitions Draft	Backup Material

**DRAFT Article 13 Definitions DRAFT**

**Chapter 13. Definitions**

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Section 13.1.1. Purpose and Intent

This chapter is intended to define terms used within the Land Development Code (LDC) and provide clarity in the LDC.

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. 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.

Certain definitions may not be in alphabetical order and may be organized according to a common term.

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.

Except where specific definitions are used within a specific section of this chapter for the purpose of such sections, the following terms, phrases, words and their derivations will have the meaning given in this subsection when not inconsistent with the context. Words that may be defined separately in the Code of Ordinances shall be defined according to this Chapter.

Section 13.1.2 General Definitions

*Abandoned Structure*, is any structure which has ceased to be used for its designed and intended purpose. Determination of abandonment may be based upon the following factors: operability and functional utility of the structure, date of last effective use of the structure, condition of disrepair or damage, last time an effort was made to repair or rehabilitate the structure, status of registration or

licensing of the structure, age and degree of obsolescence, cost of rehabilitation or repair of the structure when compared to its market value, or nature of the area and location of the structure.

*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.

*Acre*, is a land area of 43,560 square feet.

*Access*, the place, means, or way by which vehicles or pedestrians obtain ingress and egress to a property, use, or parking space.

*Access Drive*, is a roadway leading from a right-of-way to a parking area.

*Accessory Dwelling Unit (ADU)*, is a separate housekeeping unit from the primary dwelling 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*, 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*, is a use that is incidental 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.

*Addition*, 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 (for marine improvements)*, is any waterfront parcel that is not an end parcel, but that abuts an end parcel or a corner parcel.

*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.

*Adult Entertainment Establishment or Use*, is a use which is distinguished or characterized by an emphasis on materials depicting, describing or relating to specified sexual activities or specified anatomical areas either by observation or participation by the patrons or employees of that use. Specified uses are found in F.S. Ch. 847.001 and include, adult bookstores, adult theaters, unlicensed massage establishments, and adult special cabarets.



63 *Affordable Housing*, is housing with a sale or rental cost, including taxes and utilities, of 30 percent or  
64 less of the total monthly household income of low income households.

65 *Agricultural Building*, Structures intended primarily or exclusively for support of an agricultural  
66 function, including barns, silos, water towers, windmills, and greenhouses.

67 *Agricultural Land*, land used actively for the production of food, fiber, or livestock.

68 *Agricultural Uses*, means farming, including plowing, tillage, cropping, installation of best management  
69 practices, seeding, cultivating, or harvesting for the production of food and fiber products (except  
70 commercial logging and timber harvesting operations); the grazing or raising of livestock (except in feed  
71 yards); aquaculture; sod production; orchards or groves; Christmas trees; nurseries; and the cultivation  
72 of products as part of a recognized commercial enterprise.

73 *Alley*, a right-of-way that affords a secondary means of vehicular access to abutting properties.

74 *Alteration*, means any enlargement, addition, relocation, remodel, change in number of units,  
75 development, or change to a facility, other than painting and other changes to finishes.

76 *Alternate Tower Structure*, means man-made trees, clock towers, bell steeples, light poles, and similar  
77 alternative-design mounting structures that camouflage or conceal the presence of antennas or  
78 towers.

79 *Ambient*, is the surrounding level of light, noise, air, or odor.

80 *Amplified Sound*, means sound augmented by any electronic or other means that increases the sound  
81 level or volume. Public background sound or amplified sound caused by the police or fire departments  
82 of the city in the performance of their official duties shall not be considered amplified sound.

83 *Animal Kennel*, An establishment where more than four dogs or cats (except litters of animals of not  
84 more than six months of age) are kept, raised, cared for or boarded, for a fee.

85 *Animal Shelter*, any place so designed to provide for the temporary accommodation of five or more  
86 stray common household pets until appropriate disposition of such animals can be made.

87 *Antenna*, means any exterior transmitting or receiving device mounted on a tower, building, or  
88 structure and used in communications that radiates or captures electromagnetic waves, digital  
89 signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications  
90 signals, or other communication signals.

91 *Antenna Support Structure*, is any building or other structure, other than a tower, which may be used  
92 for location of wireless telecommunications facilities.

93 *Applicant*, is the person submitting an application for a permit or approval.

94 *Arbor*, is a garden structure on which plants and vines can grow to provide shade over a seat or bench.

95 *Arcade, Architectural*, means a succession of arches supported by columns or piers, or a covered  
96 walkway enclosed by a line of arches on one or both sides.



98 *Architectural Feature*, any prominent or characteristic part of a building, including windows, columns,  
99 awnings, marquee, façade or fascia.

100 *Craft Brewery, Distillery, or Winery*, is a use that brews beer, distills spirituous beverages, or produces  
101 wine and similar beverages on a small scale and whose annual production of beer is capped by the  
102 City of Cape Coral in contrast to a full-fledged brewery that may produce an unlimited volume of beer.  
103 These establishments may include a tasting room and retail space to sell beer produced on the  
104 premises, as well as beer, spirits and wine produced elsewhere, along with related retail items and  
105 food.

106 *Art, Public*, is any visual work of art displayed open to the public view on public or private property  
107 which does not contain characteristics of an advertisement for a business.

108 *Assisted Living Facility (ALF) or Nursing Home*, means any building, section or distinct part of a  
109 building, private home, boarding home, home for the aged, or other residential facility, whether  
110 operated for profit or not, which undertakes through its ownership or management to provide  
111 housing, meals, and one or more personal services for a period exceeding 24 hours to one or more  
112 adults who are not relatives of the owner or administrator.

113 *Applicant*, A property owner or any person or entity acting as an agent for the property owner in an  
114 application for a development project, permit, or approval.

115 *Auditorium or Assembly Hall*, a building with facilities to accommodate groups of people for civic,  
116 political, social, or religious purposes

117 *Awning*, a roof-like cover, often of fabric, metal, or glass, designed and intended for protection from the  
118 weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a  
119 window, walk, door.

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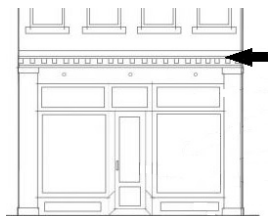
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*Banding*, means a projection of masonry or similar material around a building or part of a building, which is attached to the building.

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*Bar*, is an area or establishment primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

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*Basement*, the portion of a building having its floor subgrade (below ground level) on all sides.

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*Bathroom*, is a room in a building containing, at a minimum, a toilet and a sink.

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*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.

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*Berm*, 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. Landscape berm may be used to provide visual interest, accommodate landscape improvements, or control the direction and flow of water.

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*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.

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*Bike Lane*, is a corridor expressly reserved for bicycles.

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*Bio-Retention Area*, 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.

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144 *Blight*, an area in which there are a substantial number of deteriorated or deteriorating structures; in  
145 which conditions, as indicated by government-maintained statistics or other studies; endanger life or  
146 property or are leading to economic distress; and in which two or more of the factors outlined in F.S.  
147 163.340 are found.

148 *Block*, is land typically surrounded by streets or other transportation or utility rights-of-way, or by  
149 physical barriers such as bodies of water or public open spaces. Block may also mean a group of parcel  
150 within a geographic area.

151 *Boat*, is a vehicle designed for operation as a watercraft propelled by oars, sails, or internal combustion  
152 engine(s). A boat shall not be considered as a recreational vehicle even though it has facilities for  
153 temporary living quarters.

154 *Borrow Pit*, are excavations created by the surface mining of rock, unconsolidated geologic deposits, or  
155 soil to provide material (borrow) for fill elsewhere.

156 *Brewery*, is a facility with a capacity to manufacture more than 5,000 barrels of beer or other similar  
157 beverages a year.

158 *Brewpub*, A restaurant or bar with facilities that produces beer or wine for on-site consumption and  
159 retail sale to restaurant, bar, or nightclub patrons. Nonalcoholic beverages may also be produced for  
160 on-site consumption and retail sale. A brewpub differs from an artisan brewery in that a greater  
161 percentage of beer or wine produced at a brewpub is generally consumed on the premises.

162 *Buffer*, means open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to  
163 physically and visually separate one use or property from another.

164 *Build-to Line*, locations where a proposed development shall locate the linear footage of the building's  
165 edge and thus ensuring a uniform (or more or less even) building façade line on the street. Build-to lines  
166 may correspond to the property line or may be offset from the property line.

167 *Buildable Area*, is that portion of a lot exclusive of the required setbacks or open spaces upon which  
168 improvements are permitted.

169 *Building, Attached*, is a building which has at least part of a wall in common with another building, or  
170 which is connected to another building by a roof.

171 *Building Rear*, means a building wall that does not face a public street, a private access way, or a  
172 common open space, a building may have more than one building rear.

173 *Building Front*, means a building wall that faces a public street, a private street, or a common open  
174 space, a building may have more than one building front.

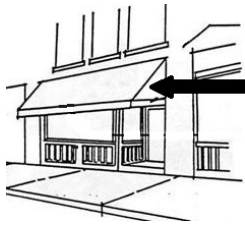
175 *Building, Primary or Principal*, is a building in which the primary use of the lot, on which the building is  
176 located, is conducted.

177 *Bulkhead*, means a shoreline stabilization structure including riprap or a seawall.

178 *Business Front Foot*, means the lineal distance of the building space occupied by the particular business  
179 measured on a straight line parallel to the street. In the event that a building fronts on two (2) or more  
180 streets, the property owner shall be given the option of selecting one (1) street frontage for the purpose  
181 of computing allowable sign area. Where a business does not parallel a street, the front foot shall be  
182 measured along the exterior of the building space occupied by the particular business.

183 *By-Right*, refers to uses requiring a permit with no public hearing required.

184 *Canopy*, a roof-like structure serving the purpose of protecting pedestrians from rain and sun, which  
185 may project from a building or be free standing. Such structure must be open on at least three sides  
186 and, if ground-supported, supports must be confined in number and cross-section area to the minimum  
187 necessary for actual support of the canopy.



189 *Caliper – Palm*, the diameter of the palm trunk taken at the widest portion, measured between one  
190 foot and three feet from the ground.

191 *Caliper – Tree*, the measurement of the average of the largest diameter of a tree, and that  
192 perpendicular to it, measured 12 inches above the ground.

193 *Cemetery*, is land used or dedicated to the burial of the dead, including crematoriums, mausoleums,  
194 necessary sales, and maintenance facilities. Mortuaries shall be included when operated within the  
195 boundary of such cemetery.

196 *Certificate of Occupancy*, is the official certification that a premises may be used or occupied pursuant to  
197 the State Building Codes.

198 *Chickee or Chiki*, a structure built by the Seminole and Miccosukee Tribes, made of supporting posts and  
199 a thatched roof of palm fronds.

200 *Childcare Facility*, includes any child care center or child care arrangement which provides child care  
201 for more than five children unrelated to the operator and which receives a payment, fee, or grant for  
202 any of the children receiving care, wherever operated, and whether operated for profit.

203 *Civic Building*, is a building specifically designed for a civic function. Buildings and structures for public  
204 or private assembly, including places of worship and schools, shall be considered civic buildings.

205 *Clearing of Vegetation*, means removal of plants and or topsoil and vegetative materials in  
206 preparation for development, but not including mowing and cutting of brush for maintenance, the  
207 removal of dead or diseased plants or the removal of a single tree on a developed parcel.

208 *Clear Trunk – Palm*, A measurement from the soil line to a point on the trunk where the trunk  
209 caliper begins to taper abruptly, as per "Grades and Standards for Nursery Plants" published by the  
210 State Department of Agriculture and Consumer Services, Part 2.

211 *Commercial Parking Lot*,

212 *Community Center*, A building to be used as a place of meeting or social recreation that is open to  
213 the public. Community centers may also include areas of outdoor recreation such as playgrounds or  
214 athletic courts.

215  
216 *Community Garden*, is a private or public facility for cultivation of fruits, flowers, vegetables, or  
217 ornamental plants by more than one person or family.

218  
219 *Community Residential Home*, means a dwelling unit licensed to serve residents who are clients of  
220 the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of  
221 Juvenile Justice, or the Department of Children and Families or licensed by the Agency for Health  
222 Care Administration which provides a living environment for 7 to 14 unrelated residents who  
223 operate as the functional equivalent of a family, including such supervision and care by supportive  
224 staff as may be necessary to meet the physical, emotional, and social needs of the residents.  
225 Homes of six or fewer residents which otherwise meet the definition of a community residential  
226 home shall be deemed a single-family unit and a noncommercial, residential use for the purpose of  
227 local laws and ordinances.

228 *Concurrency*, necessary public facilities and services to main the adopted level of service standards  
229 are available when the impacts of a development occur.

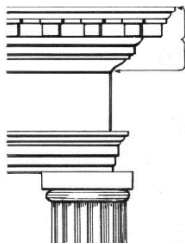
230 *Conditional Use*, are uses which are generally appropriate in a zoning district but have certain additional  
231 requirements to ensure the use is compatible. Conditional uses may be approved administratively as long  
232 as the required conditions are met and maintained.

233 *Continuing Care Facility*, is a center which provides independent household units as well as assisted  
234 living units to allow a resident to age within one facility or community.

235 *Construction Staging Area*, An area used on a temporary basis for the storage of materials and  
236 supplies used in the construction of a project for a limited period of time.

237 *Convenience Store*, is any retail establishment offering for sale a limited line of groceries and household  
238 items intended for the convenience of the neighborhood, with or without sale of fuel.

239 *Cornice*, means a horizontal, ornamental molding that crowns a building or element of a building such as  
240 a window or doorway.



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242

243 *Corrugated Metal*,

244 *Crime Prevention Through Environmental Design (CPTED)*, is a multi-disciplinary approach to  
245 deterring criminal behavior through the design of the built environment. Specifically, altering the  
246 physical design of the communities in which humans reside and congregate in order to deter criminal  
247 activity is the main goal of CPTED.

248 *Cul-De-Sac*, is a dead-end street terminated at the closed end by a circular vehicular turn-around.

249 *Cultural and Civic Facilities*, Facilities of historic educational or cultural interest such as botanical  
250 gardens, aquariums, libraries, art galleries, or museums.

251 *Cupola*, an ornamental structure placed above a larger roof.



252

253 *Deck*, is an open and roofless platform that adjoins a house and is supported by a means other than the  
254 principal structure.

255 *Density*, the number of dwelling units permitted per acre of land.

256 *Developer*, is the person who is improving a parcel of land and who may or may not be the owner of that  
257 property.

258 *Development*, is any human-caused change to improved or unimproved real estate that requires a  
259 permit or approval from any agency of the city or county, including but not limited to, buildings or other

260 structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of  
261 materials.

262 *Development Approval*, is any written authorization from the city which authorizes the commencement  
263 of a development.

264 *Diameter at Breast Height (DBH)*, Diameter of the tree when measured four and one-half feet above the  
265 ground.

266 *Distribution Line*, The electric lines that deliver medium voltage electricity from the substation to an  
267 overhead or underground transformer that ultimately serves the consumer.

268 *Divider Median*, A landscaped strip between abutting rows of parking spaces.

269 *Site Development Plan*, is the 100% detailed plan for a development which must be approved prior to  
270 the release of construction permits.

271 *Dock*, any structure, otherwise known as a pier, wharf, or loading platform, extending into the water  
272 from a seawall or bank and which may provide berthing for marine vessels.

273 *Dormitory*, is a building intended or used principally for sleeping accommodations where such building is  
274 related to an educational or public institution, including religious institutions.

275 *Dwelling Unit*, one or more rooms constituting all or part of a dwelling which are used as living quarters  
276 for one family and contain a bathroom and kitchen facilities.

277 *Dwelling, Duplex*, is a structure designed to accommodate two dwelling units, each of which has direct  
278 access to the outside.

279 *Dwelling, Multifamily*, is a building containing three or more individual dwellings with separate cooking  
280 and toilet facilities for each dwelling.

281 *Dwelling, Single-Family Detached*, is a dwelling unit owned in fee simple and on an individual lot which is  
282 not attached to any other dwelling unit by any means.

283 *Dwelling, Single-Family Attached*, means a single structure consisting of three or more dwelling units  
284 having one or more walls abutting with another dwelling and designed to have all exits open directly to  
285 the outside. Each dwelling unit is on a lot with individual ownership.

286 *Easement*, a grant by a property owner to the use of land by the public, a corporation, or persons for  
287 specific purposes as the construction of utilities, drainage ways, and roadways.

288 *Eave*, is the projecting lower edges of a roof overhanging the wall of a building.



289 *Encroachment*, is where a structure exists within a required setback, or an area that is designated to  
290 have no structures.

291 *Entertainment, Indoor*, means active or passive uses conducted within an enclosed building, these  
292 include but are not limited to: motion picture theaters, concert or music halls, billiards, arcades, and  
293 bowling.

294 *Entertainment, Outdoor*, means active or passive uses conducted in open or partially enclosed or  
295 screened entertainment complex. Typical uses include but are not limited to: sports arenas, motor  
296 vehicle or animal racing facilities, and outdoor amusement parks.

297 *Erosion*, is the removal of soil through water or wind action.

298 *Essential Services*, The erection, construction, alteration or maintenance (by a public or private utility  
299 company for the purpose of furnishing adequate service by said company for the public health, safety  
300 or general welfare) of electrical and communication cables, poles and wires, and water and sewer  
301 collection, transmission or distribution mains, drains and pipes, including fire hydrants. This definition  
302 shall not be interpreted to include buildings, structures or uses listed as essential service facilities.

303 *Essential Service Facilities*, Building or above ground structures (exceeding 27 cubic feet in volume)  
304 required to provide essential services including electricity; telephone, cable TV, gas, water, sewage,  
305 solid waste, and resource recovery.

306 *Excavating or Filling*, defined as the removal or placement of more than 100 cubic yards of earth or  
307 the alteration of the elevation of more than 1,250 square feet of land area more than two feet.

308 *Exotic*, means a species introduced to Florida, purposefully or accidentally, from a natural range  
309 outside of Florida.

310 *Façade*, is the exterior elevation of a structure or building as viewed from a single vantage point.

311 *Family*, any number of persons living together as a single housekeeping unit.

312 *Family day care home*, an occupied residence in which child care is regularly provided for children from  
313 at least two unrelated families and which receives a payment, fee, or grant for any of the children  
314 receiving care, whether or not operated for profit. Household children under 13 years of age, when on  
315 the premises of the family day care home or on a field trip with children enrolled in child care, shall be  
316 included in the overall capacity of the licensed home.

317 *Farmer's Market*, is an occasional or periodic outdoor market where groups of individual sellers offer  
318 for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items,  
319 and food and beverages.

320 *Fence*, A structure used for enclosing land areas constructed of pickets, boards, rails, chain link, or  
321 concrete products which are generally supported by posts and provide privacy, land separation,  
322 containment of domestic animals, and restriction of passage.

323 *Fence, Decorative*, means an open mesh fence no higher than two feet, other than chain link or barbed  
324 wire, intended to decorate, accent, or frame a feature of the landscape. Ornamental fences are often  
325 used to identify a lot corner or lot line, or frame a driveway, walkway, or planting bed.

326 *Filling*, see Excavating or Filling.

327 *Flea Market*, the sale of used merchandise customarily involving tables or space lease or rented to  
328 vendors.

329 *Flex Space*, is commercial space, typically office, workshop, and loading bay area that allows  
330 businesses to utilize the space in the manner necessary for their work, most typically light industrial  
331 uses. Uses not allowed in flex space include self-storage or general retail stores.

332 *Floor*, is the top surface of an enclosed area in a building (including basement), i.e., top of slab in  
333 concrete slab construction or top of wood flooring in wood frame construction. The term does not  
334 include the floor of a garage used solely for parking vehicles.

335 *Floor Area Ratio (FAR)*, is the ratio of the proposed amount of commercial or industrial floor area to  
336 the total land area shown for non-residential uses on the site.

337 *Floor Area, Gross*, refer to Section 1-112 of the Land Development Code.

338

339 *Florida Building Code*, the family of codes adopted by the Florida Building Commission.

340 *Florida Friendly Landscaping*, is a program developed through the University of Florida which  
341 encourages the use of low-maintenance plants and environmentally sustainable practices. A list of  
342 Florida Friendly plants can be found in Appendix 5.6.1.B.

343 *Florida Native*, Any plant recognized as occurring naturally in the State of Florida prior to the 1500s, as  
344 identified in ***Atlas of Florida Vascular Plants by Wunderlin*** , R.P., and B. F. Hansen. 2008.  
345 (<http://www.plantatlas.usf.edu/>). Institute for Systematic Botany, University of South Florida, Tampa,  
346 or other scientific documentation recognized by the city.

347 *Food Truck*, is a temporary food service establishment that is vehicle mounted and/or designed to be  
348 readily movable.

349 *Footcandle*, is the unit of measure expressing the quantity of light received on a surface. One  
350 footcandle is the illuminance produced by a candle on a surface one foot square from a distance of  
351 one foot.

352 *Frontage*, is the face of a building most nearly parallel with the public right-of-way line.

353 *Frontage Road*, is a residential or nonresidential street parallel and adjacent to a major thoroughfare  
354 and which provides access to abutting properties with protection from through traffic.

355 *Garage*, An enclosed area that is accessory to the primary residential structure and is designed primarily  
356 for the parking and storage of motor vehicles.

357 *Garage Sale*, means the noncommercial sale of privately owned items from residential premises.

358 *Gazebo*, a freestanding, roofed structure usually open on the sides.

359 *Glare*, is lighting entering the eye directly from luminaires or indirectly from reflective surfaces that  
360 causes visual discomfort or reduced visibility.

361 *Grade*, The average level of the finished surface of the ground adjacent to the exterior walls of the  
362 building.

363 *Greenhouse*, is a building or structure constructed chiefly of glass, glasslike or translucent material,  
364 cloth, or lath, which is devoted to the protection or cultivation of flowers or other plants.

365 *Green Roof*, A building roof that is partially or completely covered with vegetation and a growing  
366 medium, planted over a waterproofing membrane. It may also include additional layers such as a root  
367 barrier and drainage and irrigation systems.

368 *Groundcover*, Any low growing plant, 24 inches in height or less, that can be used to cover areas  
369 where sod or turf is not desired or will not grow.

370 *Group Home*, a dwelling unit licensed to serve residents who are clients of the Department of Elderly  
371 Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department  
372 of Children and Family Services or licensed by the Agency for Health Care Administration which provides  
373 a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a  
374 family, including such supervision and care by supportive staff as may be necessary to meet the physical,  
375 emotional, and social needs of the residents.

376 *Habitat*, means the physical location or type of environment in which an organism or biological  
377 population lives or occurs.

378 *Hardscape*, Tangible objects and features other than plant materials, including, but not limited to,  
379 steps and ramps, fountains and pools, fences, screens, dividers and walls, overhead structures (i.e.  
380 trellis), decks, retaining walls, play equipment, benches and planters, drainage structures, lighting,  
381 pavement, curbs, and site furnishings.

382 *Hearing Examiner*, is a person appointed to conduct public hearings and take action in action  
383 proceedings as specified by this code.

384 *Hedge*, is any group of shrubs planted in line or in groups that form a compact, dense, living barrier that  
385 protects, shields, separates, or demarcates an area from view; any similar plant material, or similar plant  
386 material in conjunction with a structure.

387 *Height*, The vertical distance measured from the lowest finished floor elevation to the lowest point of  
388 the highest horizontal eave or to the highest point of the highest parapet wall, whichever is higher.

389 *Helistop*, A heliport, but without ancillary facilities such as parking, waiting room, fueling and  
390 maintenance equipment.

391 *Heritage Tree*, is a Florida native canopy tree with a 20-inch caliper DBH or larger.

392 *Home Occupation*, is an occupation for monetary gain or support conducted by members of a family  
393 residing on residential premises, and conducted entirely within the dwelling, provided that no article is  
394 sold or offered for sale except such as may be produced or acquired by members of the immediate  
395 family residing on the premises. Home occupations shall not be construed to include barbershops,  
396 beauty shops, tearooms, restaurants, dress shops, commercial kennels, real estate offices, dance  
397 studios, astrologists/palmists and the like, band instrument instructors, photographic studios, and child  
398 care facility for more than five children.

399 *Hospital*, is an institution, licensed by the state department of health, providing primary health services  
400 and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury,  
401 deformity, and other abnormal physical or mental conditions, and including as an integral part of the  
402 institution, related facilities such as laboratories, outpatient facilities, or training facilities.

403 *Hotel*, is an establishment providing, for a fee, sleeping accommodations and customary lodging  
404 services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone  
405 and desk service. Related ancillary uses may include but shall not be limited to conference and meeting  
406 rooms, restaurants, bars, and recreational facilities.

407 *Household*, is the person or persons occupying a dwelling unit.

408 *Impervious Surface*, is any material that substantially reduces or prevents the infiltration of stormwater  
409 into the ground. This shall include graveled driveways and parking areas.

410 *Industry, Heavy*, is manufacturing or other enterprises with significant external effects, or which pose  
411 significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides,  
412 herbicides, or other hazardous materials in the manufacturing or other process.

413 *Industry, Light*, includes research and development activities, the manufacturing, compounding,  
414 processing, packaging, storage, assembly, and/or treatment of finished or semi-finished products from  
415 previously prepared materials, which activities are conducted wholly within an enclosed building.  
416 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.

*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: 1) non-native to the ecosystem under consideration and. 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

*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.

*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.

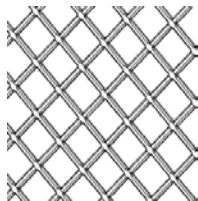
*Land Development Regulations*, means the city's zoning, subdivision, building, and other regulations controlling the development of land.

*Landscape Plan*, is a plan associated with a subdivision, land development, or parking facility 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*, 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.

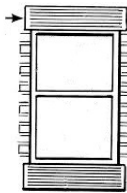
*Lattice*, is an ornamental criss-crossed framework, an arrangement of crossing laths or other thin strips of material which allows light and air to pass between the openings.



*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.

*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

*Lintel*, means a horizontal support of timber, stone, concrete, or steel across the top of a door or window.



*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*, 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.

*Lot or Lot of Record*, is a lot that is part of a recorded subdivision or a parcel of land that has been recorded with the county clerk of courts office containing property tax records.

*Lot Coverage*, refer to Section 1-112 of the Land Development Code.

*Lot, Corner*, 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 Depth*, refer to Section 1-112 of the Land Development Code.

*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.

*Lot Width*, refer to Section 1-112 of the Land Development Code.

475 *Low Impact Development (LID)*, refers to systems and practices that use or mimic natural processes that  
476 result in the infiltration, evapotranspiration, or use of stormwater in order to protect water quality and  
477 associated aquatic habitat.  
478

479 *Lowest Floor*, The lowest floor of the lowest enclosed area of a building or structure, including  
480 basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable  
481 solely for vehicle parking, building access or limited storage provided that such enclosure is not built so  
482 as to render the structure in violation of the non-elevation requirements of the Florida Building Code  
483 or ASCE 24.

484 *Lumen*, is the unit of measure used to quantify the amount of light produced by a lamp or emitted from  
485 a luminaire. One footcandle is equal to one lumen per square foot.

486 *Maintain*, means in a condition or state of equivalent quality to that which was approved or required by  
487 the city.

488 *Manufacturing, Heavy*, is the manufacturing of products from raw or unprocessed materials, where the  
489 finished product may be combustible or explosive. This category shall also include any establishment or  
490 facility using large unscreened outdoor structures such as conveyor belt systems, cooling towers, cranes,  
491 storage silos, or similar equipment, that cannot be integrated into the building design, or engaging in  
492 largescale outdoor storage. Any industrial use that generates noise, odor, vibration, illumination, or  
493 particulate that may be offensive or obnoxious adjacent land uses, or requires a significant amount of  
494 on-site hazardous chemical storage shall be classified under this land use. This use shall include any  
495 packaging of the product being manufactured on-site.

496 *Manufacturing, Light*, is the indoor processing or fabrication of certain materials or products where no  
497 process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will  
498 disturb or endanger neighboring properties.  
499

500 *Marine Improvement*, means a whole, constructed marine structure including, but not limited to,  
501 dock, boat lift, mooring posts, walkways, and other interconnecting parts. A boat canopy, its supports,  
502 and its frame shall not be considered to be a part of the marine improvement to which they are  
503 attached.

504 *Master Concept Plan*, is a general graphic depiction of the layout and/or design of a land development  
505 project, which shall include written and quantitative information as required by the city, including a  
506 phasing plan, but to be distinguished from a "site development plan," as defined herein.

507 *Medical Marijuana Dispensary*, is a facility where marijuana is made available for sale for medical  
508 purposes. This also includes establishments from which marijuana is delivered to patients who cannot  
509 obtain it from a dispensary, due to physical or mental disability, for medical purposes.

510 *Mixed-Use Development*, is a project which integrates residential and non-residential uses..

511 *Mixed-Use Building*, A building containing residential and non-residential uses permitted in the zoning  
512 district. .

513 *Model Home*, is an unoccupied dwelling constructed upon a model home lot zoned for residential use  
514 and on one of four contiguous lots from the arterial or collector roadway, with each lot under the  
515 ownership of one or more builders intending to use the lots as model home sites or ancillary parking, for  
516 display purposes, price quoting and consummation of sales contracts.

517 *Modular Structure*, is a structure not built on-site but may be assembled on-site, which is placed on a  
518 permanent foundation and meets the state building code standards.

519 *Mulch*, is any material such as wood chips, leaves, bark, straw, or other materials left loose and applied  
520 to the soil surface to reduce evaporation.

521 *Native Species*, A plant or animal that originally occurred in an area.  
522

523 *Natural Area*, is land and water that has substantially retained its natural character or land and water  
524 that, although altered in character, is important as habitats for plant, animal, or marine life, for the  
525 study of its natural, historical, scientific, or paleontological features, or for the enjoyment of its natural  
526 features.  
527

528 *Nonconforming*, is when an existing lot, structure, building, sign, development, or use of an existing lot  
529 or structure does not conform to one or more of the regulations currently applicable to the district in  
530 which the lot, structure, building, sign, development, or use is located.  
531

532 *Non-domestic animals*, farm animals including, but not limited to, horses, cattle, mules, goats, sheep,  
533 swine and poultry.  
534

535 *Nonresidential Use*, means a use that does not include dwelling units. Nonresidential uses include:  
536 commercial, industrial, public, park, institutional, agricultural uses without a residence, and parts of  
537 mixed-use developments not containing residential dwelling units. This includes hotels, motels, RV  
538 parks, and campgrounds.

539 *Nuisance*, is a thing, condition, or conduct that endangers health and safety, or unreasonably offends  
540 the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes  
541 with the comfortable enjoyment of life.

542 *Occupancy*, means the residing of an individual overnight in a dwelling unit or the installation, storage,  
543 or use of equipment, merchandise, or machinery in any public, commercial, or industrial building.

544 *Occupancy, Change of*, means the discontinuance of an existing use and the substitution of a use of a  
545 different kind or class in that same space.



546 *On-Site Sewage System*, is a sewage-treatment system that includes a settling tank through which liquid  
547 sewage flows and in which solid sewage settles and is decomposed by bacteria in the absence of oxygen.

548 *Open Space*, Land and water areas retained for use as an active or passive recreation areas or for  
549 resource protection in an essentially undeveloped state.

550 *Ornamental Grass*, A self-supporting, non-woody, perennial species of the plant family, Poaceae,  
551 Juncaceae, or Cyperaceae, that is not mowed but is allowed to grow to its full potential and is used in  
552 the landscape in the same way as a shrub.

553 *Outdoor Lighting*, means lighting equipment installed within the property line and outside the building  
554 envelopes, whether attached to poles, building structures, the earth, or any other location; and any  
555 associated lighting control equipment.

556 *Outdoor Storage*, means the storage of any material for a period greater than 48 hours, including items  
557 for sale, lease, processing, and repair (including vehicles) not in an enclosed building.

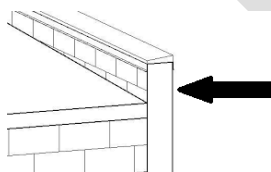
558 *Outdoor Screened Storage*, the keeping of any goods or products within a structure not defined as a  
559 building, or within a completely fenced or walled in area. The goods shall be screened by the structure,  
560 wall or fence so as not to be seen from any other property.

561  
562 *Outdoor Venue*, means a commercial establishment which offers entertainment outside of a building,  
563 including music.

564 *Outdoor Entertainment Event*, means a temporary, outdoor event utilizing amplified sound equipment,  
565 not associated with an established outdoor venue.

566 *Owner-occupied*, means a vacation rental that is the primary and permanent residence of the owner of  
567 the property.

568 *Parapet*, is that portion of the facade which extends above the roof immediately adjacent thereto.



569  
570 *Parcel*, means a contiguous land under one ownership.

571 *Parking, Off-Street*, is space designed for the parking of automobiles on premises other than streets.

572 *Parking, On-Street*, is the storage space for an automobile that is within the street right-of-way.

573 *Parking, Satellite*, is off-street parking spaces that are not on the same lot as the principal use.

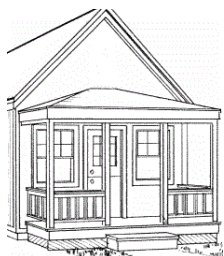
- 574 *Parking, Shared*, means joint use of a parking area by more than one use.
- 575 *Paved*, means ground covered with stone, brick, concrete, asphalt, or other substantial matter making a  
576 firm, smooth, and level surface.
- 577 *Paver*, is a grid block designed for use as a driving or parking surface, installed with cavities (either the  
578 kind in which grass can be planted or between the blocks) to minimize impervious surface and reduce  
579 runoff.
- 580 *Pedestrian-Friendly/Oriented*, means the density, layout, and infrastructure that encourages walking and  
581 biking within a subdivision or development, including limited setbacks, front porches, sidewalks, and  
582 bikepaths.
- 583 *Pergola*, is a structure, either freestanding or attached to a façade, usually consisting of parallel  
584 colonnades supporting an open roof of girders and cross rafters built as an outdoor element for partial  
585 shade.
- 586 *Permit, Conditional Use*, is a permit issued by the authorized board or hearing examiner stating that the  
587 conditional use meets all conditions set forth in this code.
- 588 *Person*, means individuals, partnerships, associations, and corporations.
- 589 *Personal Services Establishment*, is an establishment which offers specialized services purchased  
590 frequently by the consumer. Included are barbershops, beauty shops, chiropractic, dance studios, and  
591 massage clinics, garment repair, tailoring, shoe repair, pet grooming, indoor pet sitting, and beauty  
592 clinics, fitness centers, laundromats, drycleaners, photography and instructional studios, tattoo and  
593 piercing studio, martial arts studios, and other similar establishments. These uses may include accessory  
594 retail sales of products related to the services provided.
- 595 *Pervious Surface*, is any surface which allows a minimum of 80 percent precipitation from any source to  
596 infiltrate directly into the ground.
- 597 *Pilaster*, a rectangular column, especially one projecting from a wall.



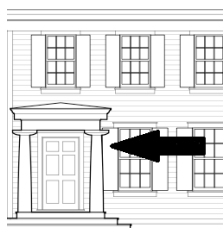
- 599 *Planned Unit Development (PUD)*, is an area of land zoned and improved as a development for which  
600 the otherwise applicable use and development requirements to allow for more flexible planning in  
601 conformance with the development approval process and developed in accordance with the  
602 provisions of this ordinance.

603 *Point of Intersection*, the point where two rights-of-way would meet if they were extended straight  
604 rather than curving to create a rounded corner at an intersection.

605 *Porch*, is a covered but unenclosed projection from the main wall of a building that may or may not use  
606 columns or other ground supports for structural purposes and is not used for livable space.



607  
608 *Portico*, means a structure consisting of a roof supported by columns at regular intervals, typically  
609 attached as a porch to a building.



610  
611 *Premises*, is a distinct unit or parcel of land including the appurtenances thereon.

612  
613 *Primary Frontage*, is any portion of a property that faces any public Right-of-Way defined as a Boulevard,  
614 a Parkway, or fronting Pine Island Road.

615 *Private Property*, property that is owned, leased, operated, maintained or controlled by one or more  
616 individuals or entities other than the city.

617 *Professional Services*,

618 *Public Art or Sculpture*, Any visual work of art displayed for two weeks or more in an open city-owned  
619 area, on the exterior of any city-owned facility, within any city-owned facility in areas designated as public  
620 area, lobbies, or public assembly areas, or on non-city property if the work of art is installed or financed,  
621 either wholly or in part, with city funds or grants procured by the city.

622 *Public Notice*, means notice to the public of a public hearing or opportunity for the public to present  
623 their views to an official representative or board of a public agency concerning an official action pending  
624 before the agency as required by state law.

625 *Public Parks and Recreational Facilities*, means natural or landscaped areas, buildings, or structures,  
626 provided by a government, to meet the active or passive recreational needs of people.

627  
628 *Public Safety Facility*, is a government facility for public safety and emergency services, including  
629 facilities that provides police or fire protection and related administrative facilities and training facilities.

630 *Qualified company*, is any business organization engaged in the business of contracting and having a  
631 qualifying agent.

632 *Rain Sensor*, A calibrated device that is designed to measure rainfall and override the irrigation cycle  
633 of the irrigation system when a pre-determined amount of rainfall has occurred.  
634

635 *Redevelopment*, is any proposed expansion, addition, or major facade change to an existing building,  
636 structure, or parking facility.

637 *Reflecting Pool*, is a shallow (less than 18" deep) pool designed as a feature of a garden, often associated  
638 with seating and/or statues

639 *Residential Use*, means a structure or part of a structure containing dwelling units, including single-family,  
640 duplexes, multi-family dwellings, boarding or rooming houses. Residences do not include transient  
641 accommodations such as transient hotels, motels, tourist cabins, RV parks, or, in a mixed-use structure,  
642 that part of the structure used for any nonresidential uses.

643 *Resort*, is a facility principally for the accommodation or short term residence of transient guests or  
644 vacationers, but where the primary attraction is generally recreational features or activities.

645 *Retail Sales Establishment*, is an establishment selling goods directly to the consumer. *Retaining Wall*, is  
646 a man-made barrier constructed for the purpose of stabilizing soil, slowing erosion, or terracing a parcel  
647 or site.

648 *Right-of-Way*, is a strip of land taken or dedicated for use as a public way. In addition to the roadway,  
649 it normally incorporates the curbs, lawn strips, sidewalks, lighting, drainage facilities, and canals.

650 *Riparian Buffer*, is a vegetated buffer strip along a watercourse that filters stormwater and provides  
651 wildlife habitat.

652 *Roadside Fruit and Vegetable Stand*, A temporary building or structure, built in accordance with all  
653 applicable Building Code requirements, which is designed, used or intended to be used for the  
654 purpose of display and retail sales of farm products, such as fruits, vegetables, food products and  
655 flowers.

656 *Roof Line (Deck Line)*, means the highest continuous horizontal line of a roof on a sloping roof, the roof  
657 line is the principal ridge line or the highest line common to one (1) or more principal slopes of the roof.  
658 On a flat roof, the roof line is the highest continuous line of a roof or parapet, whichever is higher.

659 *Photovoltaic Solar System*: A system which uses one (1) or more photovoltaic panel(s) installed on the  
660 surface of a roof, parallel to a sloped roof or surface or rack-mounted on a flat roof, to convert  
661 sunlight into electricity.

662 *Runoff*, is stormwater leaving a site due to the force of gravity.

663 *School*, is an institution for the teaching of children or adults including primary and secondary schools,  
664 colleges, professional, dance, business, trade, art, and similar facilities.

665 *Screened*, means obscured from public view.

666 *Seating Capacity*, is the actual number of seats available for use based upon the number of seats or  
667 one seat per 24 inches of bench or pew length. For other areas where seats are not fixed, the seating  
668 capacity shall be determined as indicated by the Florida Building Code.

669 *Seawall*, a wall built along a shoreline.

670 *Self-Service Storage Facility*, is a building used for the storage of personal property where individual  
671 owners control individual storage spaces.

672 *Septic Tank*, see on-site sewage system.

673 *Setback*, is the minimum horizontal distance between a structure and a property line.

674 *Shed*, means an accessory structure, attached or detached from the primary structure, which is used  
675 primarily for storage and not intended for human occupancy. A shed shall not include storage  
676 containers or shipping containers.

677 *Shopping Center*, A group of retail and other commercial businesses that are within a development.

678 *Shrub*, a woody plant that produces multiples stems or trunks rather than a single tree-like stem.

679 *Sidewalk*, is an improved pedestrian surface that is typically in a right-of-way.

680 *Sill*, means a shelf or slab of stone, wood, or metal at the foot of a window or doorway.

681 *Site Development Plan*, is the 100% detailed plan for a development which must be approved prior to  
682 the release of construction permits.

683 *Slope*, is the degree of deviation of a surface from the horizontal, usually expressed in percent, degrees,  
684 or rise over run.

685 *Socially-Active Open Space*, is open space with a minimum width of 30 feet that is created and designed  
686 for year-round active use by the public in the form of active lawn areas, plazas, squares, courtyards, and  
687 gardens. Amenities are logically arranged and typically include paths, formal or informal planting areas,  
688 and furnishings. The following areas shall not be counted as socially-active Open Space:

- 689 • Private lots, yards, balconies, and patios dedicated for use by a specific unit.
- 690 • Public rights-of-way or private driveways.
- 691 • Open parking areas and driveways for dwellings.
- 692 • Land covered by structures, except for ancillary structures associated with the use of the open  
693 space such as picnic shelters or other similar site amenities.
- 694 • Designated outdoor storage areas.

695 • Areas not accessible by the public, such as areas enclosed by walls or fences.

696 *Sod*, is the grass-covered surface of the ground and the soil below the surface only to the depth of the  
697 roots of the grass.

698 *Solar Photovoltaic (PV) Arrays*, is a device or combination of devices or structures that transforms direct  
699 solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's  
700 energy supply

701 *Sound Amplification Device*, means equipment designed to increase the volume of sound created by a  
702 separate source such as a musical instrument or a human voice. The term does not include a standard  
703 radio, DVD player or similar device, but does include "stand alone" amplified microphone systems.

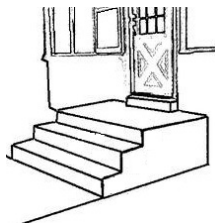
704 *Special Event*, a preplanned single gathering, event or series of related consecutive gatherings or events  
705 of an entertainment, cultural, recreational, educational, political, religious, or sporting nature, or any  
706 nature, that is sponsored by an individual or entity and is open to the public in general.

707 *Special Exception*, A use which is essential to or would promote the public health, safety, or welfare in  
708 one or more districts, but which would impair the integrity and character of the district in which it is  
709 located, or in adjoining districts unless restrictions or conditions on location, size, extent and  
710 character of performance are imposed in addition to those imposed in this ordinance.

711 *Commercial Recreation, Indoor*, is an indoor facility, with or without seating for spectators, and  
712 providing accommodations for a variety of individual, organized, or franchised sports, including  
713 basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may  
714 also provide other regular organized or franchised events, health and fitness club facilities, swimming  
715 pool, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support  
716 facilities.

717 *Commercial Recreation, Outdoor*, means a recreational land use conducted outside of a building,  
718 including athletic fields; skateboard park; swimming, tennis, handball, basketball courts; batting cages.

719 *Stoop*, means a small staircase ending in a platform and leading to the entrance of a building.



721 *Stormwater*, is the flow of water or the water itself which results from precipitation.

723 *Streetscape*, is the visual image of a street, including the combination of buildings, parking, signs, and  
724 other hardscape and street furniture

725 *Structure*, anything constructed or erected, the use of which requires permanent location on the ground  
726 or attached to something having a permanent location on the ground including but not limited to  
727 fences, signs, kiosks, or similar uses.

728 *Subdivision*, is the division of land into two or more lots or a development consisting of multiple  
729 subdivided lots.

730 *Subdivision Plat*, is the schematic representation of land divided or to be divided.

731 *Subdivision Plat, Final*, is the plat to be given final approval which includes all changes, additional  
732 information, and requirements imposed by the city. The final plat is recorded in the county clerk of  
733 courts.  
734

735 *Substantial Renovation*, means repair or changes worth 50%, or more, of the fair market value of the  
736 structure and improvements, not including the land.

737 *Swimming Pool*, is a structure, whether above or below grade level, designed to hold water more than 30  
738 inches deep to be used for recreational purposes.

739 *Temporary Storage Container*, is a standardized, reusable vessel that is designed and constructed for the  
740 primary purpose of packing, shipping, and transportation of goods or freight and are designed or  
741 capable of being mounted or moved on a truck, train, or ship.

742 *Temporary Use*, is a use of land, buildings or structures that are established for a fixed period of time  
743 with the intent to discontinue the use upon the expiration of such time.

744 *Tower*, is a structure which is designed for the purpose of supporting one or more antennas or wireless  
745 telecommunication facilities. The term “*Tower*” shall not include amateur radio antennas, structure-  
746 mounted and pole-mounted wireless telecommunication facilities.

747 *Transient occupants*, means any person, or guest or invitee of such person, who occupies or is in actual or  
748 apparent control or possession of residential property registered as a vacation rental. It shall be a  
749 rebuttable presumption that any person who holds themselves out as being an occupant or guest of an  
750 occupant of the vacation rental is a transient occupant.

751 *Tree*, is a self-supporting plant having at least one well-defined woody stem or trunk and normally  
752 attaining a mature height of at least 15 feet, with an average mature spread of at least 15 feet.

753 *Tree, Accent*, is a smaller tree whose mature height can be expected to range between 15 feet and 30  
754 feet and which has an expected crown spread range between 15 feet and 25 feet.

755 *Tree, Canopy*, is a larger tree species that normally achieves an overall height and spread at maturity of  
756 30 feet or more.

757 *Tree, Palm*, is an unbranched, evergreen tree that grows in tropical regions and has a straight, tall trunk  
758 and many large leaves at the top of the trunk

759 *Trellis*, a vertical panel of lattice designed to support vine plants.

760 *Utilities, Incidental Activities or Facilities*, means the construction or placement of public utilities or other  
761 infrastructure on a permanent or temporary basis. Examples of "incidental utility activities" include  
762 drainage improvements, stormwater retention or detention features, valves, hydrants, street  
763 improvements, temporary boat launches for water quality sampling, extension of water and sewer lines,  
764 and small scale lift stations that are not enclosed in a structure (125 cubic feet or less).

765 *Utilities, Major Public Facilities*, is any public service improvement or structure developed by or for a  
766 public agency that is not defined as an incidental public facility, including but not limited to electrical  
767 substations, sewer and water treatment plants, water reservoirs, trunk lines, regional stormwater  
768 detention facilities, new or expanded public buildings designed for human occupancy that increase  
769 traffic within a neighborhood, and active park improvements such as ball fields or restroom facilities.

770 *Utilities, Private*, means utilities that are not subject to city acceptance for operation or maintenance.  
771 For purposes of this code, private utilities include natural gas lines, power lines, telephone lines, cable  
772 television lines, and other communication lines, their appurtenances and any component part(s)  
773 thereof, and the utility companies' operation, maintenance, repair, and replacement of same.

774 *Vacation Rental*, means any unit or group of units in a condominium or cooperative or any individually or  
775 collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is  
776 rented to transient occupants more than three (3) times in a calendar year for periods of less than thirty  
777 (30) days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as  
778 a place regularly rented to transient occupants, and also a transient public lodging establishment and non-  
779 transient lodging establishment as defined in F.S. § 509.013, but that is not a timeshare project.

780 *Variable Message Board*, means a portable electronic device which may be used for providing information  
781 to motorists about construction schedules, alternate routes, expected delays, detours, and any other  
782 public message for the health, safety or welfare of the traveling public and residents. Use limited to  
783 government agencies.

784 *Variance*, A departure from the terms of this ordinance pertaining to height, width, depth and area of  
785 structures and size of yards, and parking space and sign requirements, where such departure will not  
786 be contrary to the public interest, and where, owing to conditions peculiar to the property because of  
787 its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement  
788 of this ordinance would result in unnecessary and undue hardship.

789 *Vehicle Fueling Station*, means any place where motor vehicle fuel is sold and dispensed, accessory  
790 activities may include the retail sale of convenience items or a car wash.

791 *Vehicle Repair Service Establishment*, is a building or structure, used for the repair and maintenance of  
792 automobiles, motorcycles, trucks, trailers, or similar vehicles.

793 *Vested Property Rights*, means the right to undertake and complete the development and use of  
794 property under the terms and conditions of an approved site specific development plan or an approved  
795 phased development plan for a specified time, regardless of changes in this ordinance.



796 Vehicle Sales,

797 *Vicinity Map*, is a drawing or diagram, to the appropriate scale to show the location of the proposed  
798 development in relation to abutting properties, major streets, and other known landmarks.

799 *Visibility Triangle*, is a triangular area at the intersection of two streets, or a street and a driveway; two  
800 sides of which are measured from the point of intersection for a distance specified. The third side of the  
801 triangle is a line across the corner of the lot joining the ends of the other two sides.

802 *Wall*, is an upright structure, with a continuous footer, constructed of building material, such as masonry,  
803 wood, or plaster, serving to enclose, divide, or protect an area.

804 *Wetlands*, are lands transitional between terrestrial and aquatic systems where the water table is  
805 usually at or near the surface or the land is covered by shallow water. For purposes of this definition,  
806 wetlands must have the following three attributes: (a) have a predominance of hydric soils; (b) are  
807 inundated or saturated by surface or ground water at a frequency and duration sufficient to support a  
808 prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (c) under  
809 normal circumstances support a prevalence of such vegetation.

810 *Yard*, the open space surrounding the principal building on any lot, unoccupied and unobstructed by a  
811 portion of that building from the ground to the sky except where specifically permitted by this  
812 ordinance.

813 Section 13.1.3 Floodplain Management Definitions

814 This section defines terms that are related to the Article 8 "Floodplain Management".

815

816 *Alteration of a Watercourse*, A dam, impoundment, channel relocation, change in channel  
817 alignment, channelization, or change in cross-sectional area of the channel or the channel  
818 capacity, or any other form of modification which may alter, impede, retard or change the  
819 direction and/or velocity of the riverine flow of water during conditions of the base flood.

820 *ASCE 24*. A standard titled Flood Resistant Design and Construction that is referenced by the  
821 Florida Building Code. **ASCE 24** is developed and published by the American Society of Civil  
822 Engineers, Reston, VA.

823 *Base Flood*, A flood having a 1% chance of being equaled or exceeded in any given year. The  
824 base flood is commonly referred to as the "100-year flood" or the "1%-annual chance flood."

825

826 *Base Flood Elevation*. The elevation of the base flood, including wave height, relative to the  
827 National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other  
828 datum specified on the Flood Insurance Rate Map (FIRM).

*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.

*Coastal Construction Control Line*. 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*, 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.

*Design Flood*. The flood associated with the greater of the following two areas:

- (1) Area with a floodplain subject to a 1% or greater chance of flooding in any year; or
- (2) Area designated as a flood hazard area on the city's flood hazard map, or otherwise legally designated.

*Design Flood Elevation*, 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.

*Existing Building and Existing Structure*. Any buildings and structures for which the "start of construction" commenced before August 17, 1981.

*Existing Manufactured Home Park or Subdivision*. 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*, 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).

*Federal Emergency Management Agency (FEMA)*. The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

*Flood or Flooding*, A general and temporary condition of partial or complete inundation of normally dry land from:

868 (1) The overflow of inland or tidal waters;  
869 (2) The unusual and rapid accumulation or runoff of surface waters from any  
870 source.

871

872 *Flood Damage Resistant Materials*, any construction material capable of withstanding direct  
873 and prolonged contact with floodwaters without sustaining any damage that requires more  
874 than cosmetic repair.

875 *Floodplain*, is the land area susceptible to inundation by water as a result of a flood.

876 *Floodway Encroachment*, is any fill, structure, building, accessory use, use, or development in  
877 the floodway.

878

879 *Flood Hazard Area*, The greater of the following two areas:

880 (1) The area within a floodplain subject to a 1% or greater chance of flooding in any  
881 year.

882 (2) The area designated as a flood hazard area on the city's flood hazard map, or  
883 otherwise legally designated.

884

885 *Floodplain Administrator*, the office or position designated and charged with the administration  
886 and enforcement of this Article (may be referred to as the Floodplain Manager).

887 *Floodplain Development or Approval*, an official document or certificate issued by the city, or  
888 other evidence of approval or concurrence, which authorizes performance of specific  
889 development activities that are located in flood hazard areas and that are determined to be  
890 compliant with this Article.

891 *Floodway*, the channel of a river or other riverine watercourse and the adjacent land areas that  
892 must be reserved in order to discharge the base flood without cumulatively increasing the water  
893 surface elevation more than one foot.

894 *Floodway Encroachment Analysis*, an engineering analysis of the impact that a proposed  
895 encroachment into a floodway is expected to have on the floodway boundaries and base flood  
896 elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using  
897 standard engineering methods and models.

898 *Functionally Dependent Use*, A use which cannot perform its intended purpose unless it is  
899 located or carried out in close proximity to water, including only docking facilities, port facilities  
900 that are necessary for the loading and unloading of cargo or passengers, and ship building and  
901 ship repair facilities; the term does not include long term storage or related manufacturing  
902 facilities.

903 *Highest Adjacent Grade*, The highest natural elevation of the ground surface prior to  
904 construction next to the proposed walls or foundation of a structure.

905 *Historic Structure*, Any structure that is determined eligible for the exception to the flood hazard  
 906 area requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings.

907 *Letter of Map Change, (LOMC)* An official determination issued by FEMA that amends or revises  
 908 an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

909 *Letter of Map Amendment (LOMA):* An amendment based on technical data showing that a  
 910 property was incorrectly included in a designated special flood hazard area. A LOMA amends  
 911 the current effective Flood Insurance Rate Map and establishes that a specific property,  
 912 portion of a property, or structure is not located in a special flood hazard area.

913 *Letter of Map Revision (LOMR):* A revision based on technical data that may show changes to  
 914 flood zones, flood elevations, special flood hazard area boundaries and floodway delineations,  
 915 and other planimetric features.

916 *Letter of Map Revision Based on Fill (LOMR-F):* A determination that a structure or parcel of  
 917 land has been elevated by fill above the base flood elevation and is, therefore, no longer  
 918 located within the special flood hazard area. In order to qualify for this determination, the fill  
 919 must have been permitted and placed in accordance with the city's floodplain management  
 920 regulations.

921 *Letter of Map Revision, Conditional (CLOMR):* A formal review and comment as to whether a  
 922 proposed flood protection project or other project complies with the minimum NFIP  
 923 requirements for such projects with respect to delineation of special flood hazard areas. A  
 924 CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study;  
 925 upon submission and approval of certified as-built documentation, a Letter of Map Revision  
 926 may be issued by FEMA to revise the effective FIRM.

927 *Light-Duty Truck*, As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds  
 928 gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less  
 929 and which has a basic vehicle frontal area of 45 square feet or less, which is:

930 (1) Designed primarily for purposes of transportation of property or is a derivation of  
 931 such a vehicle; or  
 932 (2) Designed primarily for transportation of persons and has a capacity of more than 12  
 933 persons; or  
 934 (3) Available with special features enabling off-street or off-highway operation and  
 935 use.

936

937 *Lowest Floor*, The lowest floor of the lowest enclosed area of a building or structure, including  
 938 basement, but excluding any unfinished or flood-resistant enclosure, other than a basement,  
 939 usable solely for vehicle parking, building access or limited storage provided that such enclosure  
 940 is not built so as to render the structure in violation of the non-elevation requirements of the  
 941 Florida Building Code or ASCE 24.

942 *Manufactured Home*, A structure, transportable in one or more sections, which is eight feet or  
 943 more in width and greater than 400 square feet, and which is built on a permanent, integral  
 944 chassis and is designed for use with or without a permanent foundation when attached to the  
 945 required utilities. The term *Manufactured Home* does not include a "recreational vehicle" or

946 "park trailer." The term *Manufactured Home* shall also include the term "mobile home" as  
947 provided in Article 13. Definitions.

948 *Manufactured Home Park or Subdivision*, A parcel (or contiguous parcels) of land divided into  
949 two or more manufactured home lots for rent or sale.

950 *Market Value*, the price at which a property will change hands between a willing buyer and a  
951 willing seller, neither party being under compulsion to buy or sell and both having reasonable  
952 knowledge of relevant facts. As used in this Article, the term refers to the market value of  
953 buildings and structures, excluding the land and other improvements on the parcel. Market  
954 value may be established by a qualified independent appraiser, actual cash value (replacement  
955 cost depreciated for age and quality of construction), or tax assessment value adjusted to  
956 approximate market value by a factor provided by the property appraiser.

957 *New Construction*, For the purposes of administration of this Article and the flood resistant  
958 construction requirements of the Florida Building Code, structures for which the "start of  
959 construction" commenced on or after August 17, 1981 and includes any subsequent  
960 improvements to such structures.

961 *New Manufactured Home Park or Subdivision*, A manufactured home park or subdivision for  
962 which the construction of facilities for servicing the lots on which the manufactured homes are  
963 to be affixed (including at a minimum, the installation of utilities, the construction of streets,  
964 and either final site grading or the pouring of concrete pads) is completed on or after August  
965 17, 1981.

966 *Park Trailer*, A transportable unit which has a body width not exceeding 14 feet and which is  
967 built on a single chassis and is designed to provide seasonal or temporary living quarters when  
968 connected to utilities necessary for operation of installed fixtures and appliances.

969 *Recreational Vehicle*, A vehicle, including a park trailer, which is:

- 970 (1) Built on a single chassis;  
971 (2) 400 square feet or less when measured at the largest horizontal projection;  
972 (3) Designed to be self-propelled or permanently towable by a light duty truck; and  
973 (4) Designed primarily not for use as a permanent dwelling but as temporary living  
974 quarters for recreational, camping, travel, or seasonal use.

975  
976 *Sand Dunes, Naturally*, occurring accumulations of sand in ridges or mounds landward of the  
977 beach.

978 *Special Flood Hazard Area*, An area in the floodplain subject to a 1% or greater chance of  
979 flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1  
980 A30, AE, A99, AH, V1 V30, VE or V.

981 *Start of Construction*, the date of issuance for new construction and substantial improvements  
982 to existing structures, provided the actual start of construction, repair, reconstruction,  
983 rehabilitation, addition, placement, or other improvement is within 180 days of the date of the  
984 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.

*Substantial Damage*, 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*, 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;
- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

#### Section 13.1.4 Marine Improvement Definitions

This section defines terms that are related to the Article 5, Chapter 5 "Marine Improvements".

*Adjacent Parcel (for marine improvements)*, is any waterfront parcel that is not an end parcel, but that abuts an end parcel or a corner parcel.

*Boat Canopy*, 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.

1022 *Boat slip*, is a space designed for the mooring of a single watercraft. Such spaces may extend  
1023 from a dock or shoreline or be created from a cut-in.

1024 *Boathouse*, is an accessory structure either wholly or partially over a body of water and  
1025 designed to provide shelter for water craft or for marine-related equipment.

1026 *Canal End Line*, is a line or lines drawn from the farthest point where the canal meets land  
1027 perpendicular to the sides of the canal, or to the sides of the canal as extended if necessary. If  
1028 the side of a canal curves near its end point, such canal side shall be extended from the point  
1029 immediately preceding where it begins to curve. See Diagram 5.5.4.A.

1030 *Canal Width*, the width of the canal measured from seawall to seawall using the City's Geographic  
1031 Information Systems (GIS).

1032 *Centerline of the Marine Improvement Area*, means a line extended from the center of the  
1033 parcel's water frontage line to the center of the offset line of the parcel's marine improvement  
1034 area. See Diagram 5.5.4.F.

1035 *Channel or Canal*, is an open conduit, either naturally or artificially created, which periodically or  
1036 continuously contains moving water, or which forms a connecting link between two bodies of  
1037 water.

1038 *Corner Parcel*, is a parcel that either touches or is on both sides of an interior corner of a lake,  
1039 basin, or canal.

1040 *Corner, Waterway*, is the meeting of two sides which create an angle less than 180 degrees.

1041 *Cut-In Boat Slip*, is a place for a boat to moor, created within a parcel through excavation or  
1042 removal of soil and rock material and construction of a seawall around that area.

1043 *End Parcel*, a waterfront parcel where any part of the parcel abuts or includes within its  
1044 boundaries any part of the canal end line or any part of an extension of a side line between the  
1045 side line and the canal end line.

1046 *Fender Post*, is a post inserted into the canal bottom and fastened to the dock or seawall to  
1047 prevent damage to the vessel when tied alongside the dock or seawall.

1048 *Marine Improvement*, means a whole, constructed marine structure including, but not limited  
1049 to, dock, boat lift, mooring posts, walkways, and other interconnecting parts. A boat canopy,  
1050 its supports, and its frame shall not be considered to be a part of the marine improvement to  
1051 which they are attached.

1052 *Marine Improvement Area*, is that area enclosed by the water frontage line, the offset line, and  
1053 lines connecting the ends of the offset line to corresponding offset points.. See Diagram 5.5.4.E.

1054 *Mean Water Level*, in regard to fresh water waterways, the elevation established at the  
1055 downstream weir, and, in regard to saltwater waterways, the mean high water of +013 feet  
1056 National Geodetic Vertical Datum of 1929 (NGVD-29).

1057 *Mooring Piles*, posts, meant for tethering a watercraft to, which are anchored into the floor of a  
1058 waterbody.

1059 *Navigable Channel*, means that portion of the waterway width in which no marine improvement  
1060 may lawfully be constructed. The access width of the waterway shall be calculated by subtracting  
1061 from the calculated waterway width twice the maximum distance that a marine improvement  
1062 located along one side of the waterway could lawfully project.

1063 *Offset Point*, means the distance from the property line where a marine improvement may be  
1064 built. See Diagram 5.5.4.C.

1065 *Outside Corner parcel*, means a parcel of land which projects into one or more waterways so as  
1066 to have two or more sides abutting such waterway(s).

1067 *Quay*, a modified seawall where a boat can dock parallel to the shore.

1068 *Water Frontage Line*, means the line at which a waterfront parcel abuts the waterway. If the  
1069 waterfront parcel has a seawall, the seawall face shall be deemed the water frontage line for  
1070 the parcel. For waterfront parcels that have a property line, but no seawall, abutting the  
1071 waterway, such property line shall be deemed the water frontage line. See Diagram 5.5.4.A.

1072 *Waterfront Parcel*, means a parcel which abuts a waterbody.

1073 *Waterway*, is any man-made or natural body of water, including, canals, lakes, and basins,  
1074 within the City of Cape Coral.

1075 *Waterway Access Ratio*, means shall be calculated by dividing the waterway access width by the  
1076 calculated width of the waterway. See 5.5.4.B.

1077 *Waterway Center Point (WCP)*, is a point on the centerline of the canal 40 feet from the water's  
1078 end. See Diagram 5.5.4.B.

1079 *Watercourse*, is a channel in which a flow of water occurs either continuously or intermittently  
1080 in a definite direction. The term applies to either natural or artificially constructed channels.

1081 *Watercraft*, is a boat, houseboat, canoe, raft, surfboard, or other apparatus designed for use on  
1082 water, including motors or engines designed to propel such craft or apparatus.

1083 *Watercraft, Personal*, is a recreational watercraft that a rider sits or stands on rather than inside,  
1084 as one would a boat.



1085     Section 13.1.5 Signs Definitions

1086     This section defines terms that are related to the Article 6 “Signs”.

1087             *Banner*, is any sign having the characters, letters, illustrations, or ornamentations applied to cloth,  
1088             paper, or fabric of any kind with only such material for foundation. The word "banner" shall also  
1089             include pennant or any animated, rotating and/or fluttering device, with or without lettering or  
1090             design, and manufactured and placed for the purpose of attracting attention.

1091             *Feather Flag*, is a vertical flag used for identifying a secondary model home contiguous to the  
1092             primary model home site.

1093             *Flag*, is a piece of fabric with a color or pattern that represents some country, state, county, city,  
1094             party, organization, or business activity.

1095             *Flashing Sign*, is any sign with a light or lights which flash, blink, operating on and off  
1096             intermittently, change in intensity, or otherwise create the illusion of flashing or movement.

1097             *Flat or Wall Sign*, is any sign erected parallel to the facade or on the outside wall of any building  
1098             and supported throughout its length by the wall of the building or incorporated into the structure  
1099             or architecture.

1100             *Mural*, is any picture, scene, or diagram painted on any exterior wall or fence not interpreted by  
1101             the zoning administrator to be advertising. Murals determined to be advertising shall be  
1102             considered a sign and shall be included in the calculations of allowable sign area.

1103             *Sign*, is any display of banners and flags, characters, letters, illustrations or any ornamentations,  
1104             or the complete structure on which any such characters, letters, illustrations, or ornamentations  
1105             are stated or applied (except buildings to which the same may be attached); used for  
1106             identification, directional purposes, advertising or promotional purposes.

1107             *Sign, A-Frame*, is a moveable sign not secured or attached to the ground as required by this  
1108             Code. Menu boards are permitted on sidewalks within commercial shopping centers and in front  
1109             of the business it applies to, and which do not obstruct the walkway and are not placed in the  
1110             landscaping.

1111             *Sign, Abandoned*, is a sign which advertises a business that is no longer licensed, or is no longer  
1112             doing business at that location.

1113             *Sign, Add-on*, is any additional sign area added to a previously permitted and/or conforming  
1114             sign.

1115             *Sign, Advertising*, is any form of printed message intended to aid, directly or indirectly, in the  
1116             sale, use or promotion of a product, commodity, service, activity, or entertainment.

1117             *Sign, Animated*, is a sign with action or motion using electrical energy, electronic or  
1118             manufactured sources of supply, or wind actuated elements, including rotating, revolving, or

1119 flashing sign against which it is placed, excluding the necessary supports or uprights on which  
1120 such sign is placed.

1121 *Sign Area*, is the height multiplied by the length. Height shall be measured from the top of the  
1122 highest letter to the bottom of the lowest and length shall be measured from the point of the  
1123 lettering furthest to the left to the point of the lettering furthest to the right. Any logo shall be  
1124 measured in the same fashion and will count as part of the sign face area. When the lettering  
1125 and logo are contained within a frame or outline, the sign area shall be the area inside the frame  
1126 or outline. For double-faced signs, only one side shall be measured for the area.

1127 *Sign, Bench*, is a sign located on any part of the surface of a bench or seat placed adjacent to a  
1128 public street.

1129 *Sign, Building Identification*, is a sign located on a building with a main entry that depicts only the  
1130 name of the building. Building identification signs located on the exterior of a building or behind  
1131 a glass enclosure, window, glass facade, or any other transparent surface material, and visible  
1132 from the outside of the building, are considered signs. Such signs must conform to the Sign Code.

1133 *Sign, Changeable Copy*, means a sign which has message characters that are not permanently  
1134 attached to the sign, but which are attached to permit numerous changes of the message.

1135 *Sign, Construction*, is a temporary sign erected on the premises on which construction is taking  
1136 place, during the period of such construction, identifying those engaged in construction on any  
1137 building site. This includes the builder, contractor, developer, architect, engineer, financing entity,  
1138 or other persons or artisans involved in said construction.

1139 *Sign, Development*, is a temporary sign advertising the sale or rental of structures under  
1140 construction upon land which is under development.

1141 *Sign, Directional*, a sign whose message is exclusively limited to guiding the circulation of  
1142 motorists or pedestrians on the site.

1143 *Sign, Directory*, is a sign which lists only the names of individuals or businesses within a building,  
1144 or contiguous buildings on one premises.

1145 *Sign, Double-Faced*, is a sign with two identical display areas against each other or where the  
1146 interior angle formed by the display areas is 60 degrees or less, where one face is designed to be  
1147 seen from one direction and the other side from another direction.

1148 *Sign, Façade*, see "wall sign".

1149 *Sign Face*, is that portion of the sign, excluding the supporting structure, where copy, font, visual  
1150 depictions, or otherwise can be placed.

1151 *Sign, Free Standing*, is a sign, including ground signs, pole signs and monument signs, which is  
1152 supported by one or more columns, uprights or braces anchored into the ground independent of  
1153 support from any building.

1154        *Sign, Fuel Pump Valance*, is any permanent sign attached to the top of a fuel pump.

1155        *Sign, Garage Sale*, is any sign pertaining to the sale of personal property in, at or upon any  
1156        residentially zoned property located in the City, to include yard sales, moving sales and the like.  
1157        Garage sales shall include but not be limited to all such sales, and shall include the advertising of  
1158        the holding of any such sale, of the offering to make any sale, whether made under any other  
1159        name such as lawn sale, yard sale, moving sale, front yard sale, back yard sale, home sale, attic  
1160        sale, rummage sale, patio sale, flea market sale, or any similar designation. Limited to five square  
1161        feet in area. See "Residential Transitory Sign".

1162        *Sign, Ground*, see Sign, Monument.

1163        *Sign Height*, means the vertical distance to the highest point of a sign. Freestanding signs shall be  
1164        measured from the crown of the nearest abutting street or sidewalk.

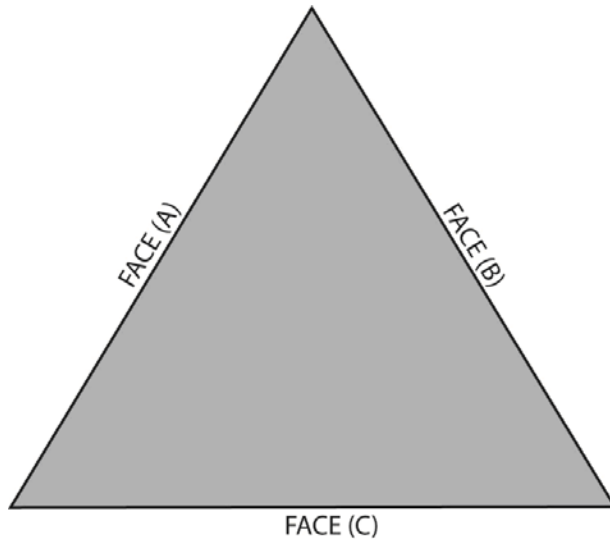
1165        *Sign, Identification*, is a sign which contains no advertising and the message of which is limited to  
1166        conveying street numbers, the name, address, and numbers of the premises, or the name of the  
1167        owner or occupant of the premises.

1168        *Sign, Illuminated*, is a sign in which a source of light is used in order to make the message readable  
1169        and shall include internally and externally lighted signs.

1170        *Sign, Instructional*, is a sign conveying instructions with respect to the premises on which it is  
1171        maintained, such as, but not limited to, "exit", "entrance", "parking", or similar instruction.

1172        *Sign, Monument*, is a freestanding sign supported primarily by an internal structural framework  
1173        or integrated into landscaping or other solid structural features other than support poles.

1174        *Sign, Multiple-Faced*, means a sign with more than two (2) faces.



$$\text{TOTAL SIGN AREA} = \text{FACE (A)} + \text{FACE (B)} + \text{FACE (C)}$$

1175

1176 *Sign, Neighborhood*, means signs designating separate and distinct neighborhoods which may be  
1177 part of a larger subdivision or have distinct characteristics which are unlike those in adjoining  
1178 areas.

1179 *Sign, Nonconforming*, is any sign which does not comply with the regulations of this sign code, or  
1180 subsequent amendments.

1181 *Sign, Off-Premises*, is a sign identifying, advertising or directing the public to a business,  
1182 merchandise, service institution, residential area, entertainment, or activity which is located, sold,  
1183 rented, based, produced, manufactured, furnished or taking place at a location other than on the  
1184 property on which the sign is located.

1185 *Sign, On-Premises*, is any structure, device, display board, screen, surface, or wall, characters,  
1186 letters, or illustrations placed thereto, thereon, or there under by any method or means  
1187 whatsoever where the matter displayed is used for advertising on the premises, a product or  
1188 service, actually or actively offered for sale or rent thereon or therein.

1189 *Sign, Painted*, is any sign painted on any surface, including the roof of any building, visible from  
1190 any public right-of-way.

1191 *Sign, Pole*, is a freestanding sign that is affixed, attached, or erected on a pole that is not itself an  
1192 integral part of or attached to a building or structure.

1193 *Sign, Political*, means any temporary sign announcing or supporting political candidates or issues  
1194 in connection with any local, county, state, or national election.

1195 *Sign, Portable*, is any sign that is designed to be transported, including but not limited to signs:  
1196 with wheels removed; with chassis or support constructed without wheels; designed to be

1197 transported by trailer or wheels; attached temporarily or permanently to the ground, structure,  
1198 or other signs; menu and sandwich boards, searchlight stands; and tethered inflatable signs.

1199 *Sign, Projecting Blade*, is any sign hung or projecting perpendicular to the building. Maximum  
1200 allowable area is four square feet.

1201 *Sign, Projecting*, is a sign projecting at an angle from the outside wall or walls of any building which  
1202 is supported by only one rigid support, irrespective of the number of guy wires used in connection  
1203 therewith.

1204 *Sign, Public*, is a sign placed under the authority of duly authorized government officials, including  
1205 traffic signs, legal notices, public safety signs, or signs placed by such authorized official for the  
1206 public health, safety, welfare, or convenience.

1207 *Sign, Real Estate*, is any sign installed by the owner or his agent on a temporary basis, advertising  
1208 the real property upon which the sign is located for rent, sale, or lease.

1209 *Sign, Residential Transitory*, means specific types of temporary signs which may be displayed for  
1210 three consecutive days only. These signs are intended to facilitate garage sales, estate sales,  
1211 moving sales, yard sales, neighborhood meetings, HOA meetings and the like. See "Garage Sale  
1212 Sign" and "Estate Sale Sign".

1213 *Sign, Revolving*, see Animated Sign

1214 *Sign, Roof*, is any outdoor advertising display sign, installed, constructed, or maintained above the  
1215 roof line of any building.

1216 *Sign, Sandwich*, see A-Frame Sign

1217 *Sign, Rotating*, see Animated Sign

1218 *Sign, Snipe*, is any sign of any size, made of any material, including but not limited to paper,  
1219 cardboard, wood, and metal, when such sign is tacked, nailed, posted, pasted, glued or otherwise  
1220 attached to trees, poles, fences or other objects, and the advertising matter appearing thereon is  
1221 not applicable to the premises upon which said sign is located.

1222 *Sign, Special Event*, is any temporary sign announcing special events.

1223 *Sign, Swinging*, is any sign that swings freely from or on supports regardless of the guy wires used  
1224 in connection therewith.

1225 *Sign, Temporary*, is a sign that advertises for a specific limited period of time, political candidates,  
1226 parties, or issues, a building under construction, business grand opening, other special events and  
1227 model homes.

1228 *Sign, Time and Temperature*, is a display containing illuminated numerals flashing alternatively to  
1229 show the time and temperature.

1230 *Sign, Trailer*, is any sign installed on a frame or structure with wheels other than a motor vehicle.

1231 *Sign, Under Canopy*, is any sign hung under a canopy perpendicular to the building. No permit  
1232 required. Maximum area is four square feet.

1233 *Sign, V-Shaped*, is any sign which has two faces which are not parallel. The area of each of the two  
1234 faces will be added together to calculate the allowable area for the sign face dimension. A V-  
1235 shaped sign is not a double-faced sign.

1236 *Sign, Vehicle*, is a sign affixed to or painted on a transportation vehicle or trailer for the purpose  
1237 of identification or advertisement. Vehicle signs shall not include political signs, bumper stickers,  
1238 or signs required by law, ordinance, or regulations.

1239 *Sign, Wall (Facade Sign)*, is any sign installed parallel to or flush against the outside facade of a  
1240 building. Such signs, and logos located on the exterior of a building or behind a glass enclosure,  
1241 window, glass facade, or any other transparent surface material, and visible from the outside of  
1242 the building, are considered wall signs and are calculated as part of the total facade signage  
1243 permitted. Such signs must conform to the Sign Code. See Building Identification signs.

1244 *Sign, Window*, is any sign which is attached or painted, either permanently or temporarily, on the  
1245 interior or exterior of a window, glass door, glass wall, or which is placed within 12 inches of the  
1246 window, glass door, or glass wall and is intended to be viewed from the outside.

1247 Section 13.1.6 Wireless Telecommunications Definitions

1248 This section defines terms that are related to the Article 5, Chapter 12 “Wireless Telecommunication”.

1249 *Camouflaged*, means any wireless communications facility which is designed to blend into the  
1250 surrounding environment or that camouflages or conceals the presence of the tower or wireless  
1251 telecommunication facility to the extent that the average person would be unaware of its  
1252 nature as a tower, antenna, or wireless telecommunications facility. Examples of camouflaged  
1253 facilities include, but are not limited to, man-made trees, clock towers, bell steeples, flag poles,  
1254 light poles, and similar alternative-design mounting structures. Examples of camouflaged  
1255 antennas include, but are not limited to, architecturally screened roof-mounted antennas,  
1256 building-mounted antennas painted to match the existing structure, and antennas integrated  
1257 into architectural elements.

1258 *Co-location*, is the act of erecting antenna(s) of a wireless service provider on a tower or an  
1259 existing antenna support structure already supporting an antenna.

1260 *Designed Service Study*, is a study of the configuration and manner of deployment of wireless  
1261 services the wireless provider has designed for an area as part of its network that demonstrates  
1262 whether or not existing towers or tall structures in the search can be utilized for co-location.

1263 *FAA*, means the Federal Aviation Administration.

1264 *FCC*, means the Federal Communications Commission

*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.

*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.

*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.

*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.

Item Number:	7.A.
Meeting Date:	1/10/2018
Item Type:	DATE AND TIME OF NEXT MEETING

**AGENDA REQUEST  
FORM**  
CITY OF CAPE CORAL



**TITLE:**

Workshop Date to be Determined (TBD)

**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:**

**LEGAL REVIEW:**

**EXHIBITS:**

**PREPARED BY:**

Division- Department-

**SOURCE OF ADDITIONAL INFORMATION:**



Item Number:	7.B.
Meeting Date:	1/10/2018
Item Type:	DATE AND TIME OF NEXT MEETING

**AGENDA REQUEST  
FORM**  
CITY OF CAPE CORAL



**TITLE:**

Regular Planning and Zoning Meeting; Wednesday, February 7, 2018 At 9:00 a.m. in Council Chambers

**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:**