

Cape Coral Planning & Zoning Commission Workshop

1015 Cultural Park Blvd.
Cape Coral, FL
www.capecoral.net



AGENDA

Wednesday, March 7, 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, Schneider, Slapper and Alternate Stevens

5. BUSINESS

A. Land Use Development Code Article 5

6. DATE AND TIME OF NEXT MEETING

A. Wednesday, April 4, 2018, at 9:00 a.m. in Council Chambers, Workshop to follow

7. 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.

Item Number: 1.A.
Meeting Date: 3/7/2018
Item Type: CALL TO ORDER

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Chair Read

REQUESTED ACTION:

STRATEGIC PLAN INFO:

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

Item Number:	4.A.
Meeting Date:	3/7/2018
Item Type:	ROLL CALL

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Bennie, Marmo, Peterson, Ranfranz, Read, Schneider, Slapper and Alternate Stevens

REQUESTED ACTION:

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Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

Item Number: 5.A.
Meeting Date: 3/7/2018
Item Type: BUSINESS

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Land Use Development Code Article 5

REQUESTED ACTION:

STRATEGIC PLAN INFO:

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 - If Yes, Priority Goals Supported are listed below.
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Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

LEGAL REVIEW:

EXHIBITS:

Wyatt Daltry: Department of Community Development
Power Point Presentation Article 5- Distributed at the Workshop

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

ATTACHMENTS:

Description	Type
▣ Article 5	Backup Material

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

CHAPTER 1. GENERAL REQUIREMENTS FOR ALL DEVELOPMENT

- Section 5.1.1.** Purpose and Intent
- Section 5.1.2.** Connection to utilities
- Section 5.1.3.** Requirements for underground utilities
- Section 5.1.4.** Access Required
- Section 5.1.5.** Protection of underground pipelines and utilities
- Section 5.1.6.** Protection of easements
- Section 5.1.7.** Required visibility triangles
- Section 5.1.8.** Sidewalks and alleys
- Section 5.1.9.** Maintenance of city rights-of-way
- Section 5.1.10.** Building numbers and addresses
- Section 5.1.11.** General regulations for lots, yards, and setbacks
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- Section 5.2.2.** Arbors, trellises, and pergolas
- Section 5.2.3.** Attached and detached garages
- Section 5.2.4.** Courts and playing surfaces
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- Section 5.2.13.** Solar Photovoltaic (PV) Arrays
- Section 5.2.14.** Swimming pools

CHAPTER 3. LAND CLEARING, FILLING, EXCAVATION, AND CONSTRUCTION SITES

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

CHAPTER 4. MARINE IMPROVEMENTS

- Section 5.4.1.** Purpose and Intent
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CHAPTER 13. CONDITIONAL USES

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Section 5.13.3. Attached residential, three-units or more single-family attached
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- Section 5.13.14.** Sporting facilities, Indoor and Outdoor
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- Section 5.13.18.** Resort (in R1, RML, RMM)
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- Section 5.13.21.** Vehicle fueling stations
- Section 5.13.22.** Outdoor Screened Storage

CHAPTER 1. GENERAL REQUIREMENTS FOR ALL DEVELOPMENT

Section 5.1.1 Purpose and Intent

The purpose of this article is to provide standards for all development in the City of Cape Coral.

Section 5.1.2 Connection to utilities.

All development is required to connect to public or private utilities, as required as by the City of Cape Coral Code of Ordinances, Chapter 19 Water and Sewer Utilities.

Section. 5.1.3. Requirements for underground utilities.

In new residential subdivisions, all utility lines (including electrical power distribution, telephone, communication, street lighting, and cable television signal service) shall be installed underground. This Section shall apply to all cable, conduits, or wires forming part of an electrical distribution system, including service lines to individual properties.

However, this Section shall not apply to wires, conductors, or associated apparatus and supporting structures whose exclusive function is in transmission of electrical energy between generating stations, substations, transmission lines of other utility systems, and main distribution feeder electric lines delivering power to local distribution systems. Appurtenances such as transformer boxes, pedestal-mounted terminal boxes, and meter cabinets may be placed above ground and in such a manner as to minimize noise effects upon the surrounding residential properties.

The developer shall provide for the necessary costs and other arrangements for such underground utility installation.

Section 5.1.4. Access required.

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Except as otherwise provided, all building sites shall have access on a street or a road shown on an approved and recorded final plat. One or more buildings may have no direct access to a street provided that the approving authority finds that such building site(s) have adequate indirect access to a street such as a recorded easement or right-of-way through or over another parcel. ~~Furthermore, in a PUD project,~~ the city may prohibit direct access from a parcel or building site to a street when the approving authority finds that prohibition of direct access would promote the public health, safety, and welfare based on factors including traffic or transportation safety and when the parcel or building site could be afforded indirect access to a street or other road via another parcel or building site ~~within the PUD.~~

Section 5.1.5 Protection of underground pipelines and utilities.

- A. Intent. It is the intent of the City Council to protect underground pipelines and utilities from destruction or damage to prevent:
1. Death or injury to persons;
 2. Property damage to private and public property; and
 3. Loss of essential pipeline or utility services to the general public.
- B. Notice requirements for excavation. No excavator shall make or begin any excavation on public property or dedicated easements without first obtaining information concerning the possible location of utility lines in the area of the proposed excavation. The excavator may obtain such information by contacting each ~~supplier entity~~ who may have utility facilities in the area of the proposed excavation. Such contact may be made by telephone, written correspondence, e-mail, messenger, or in person.
- C. Notice requirements when marking of lines is necessary. If marking of utility lines is necessary, the excavator shall notify that ~~supplier entity~~ so that the ~~supplier entity~~ receives notification at least 48 hours (excluding Saturdays, Sundays and legal holidays) prior to the commencement of the excavation. When marking is necessary the utility line concerned shall be marked by the ~~supplier entity~~. Marking of a utility line is necessary when:
1. A proposed excavation, except blasting, is planned with five feet of a utility line located on public property or a dedicated easement.
 2. A proposed excavation, by blasting, is planned in such proximity to a utility line that the utility line will be destroyed, damaged, or disturbed.
- D. Penalties for violation. Any person violating this section shall be punished as provided in ~~S 1-14~~ of the Code of Ordinances of the City of Cape Coral.

Section 5.1.6. Protection of easements.

- A. In the R-1, RML, RE, and A zoning districts, the six-foot easement around the perimeter of sites shall be preserved and nothing shall be placed or constructed on such easements other than a paved

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driveway, walkway, sidewalk, or well. In addition, for non-residential uses lawfully located in residential zoning districts, paved off-street parking areas may be placed or constructed on the six-foot easement around the perimeter of the site. Fences?

B. In the RMM zoning district, where lot depth is greater than 131 feet, the six-foot easement around the perimeter of the sites shall be preserved and nothing shall be placed or constructed on such easement other than a paved driveway, walkway, sidewalk, paved off-street parking areas, or a well when site conditions make it impractical to locate elsewhere. On sites with a depth of less than 131 feet, paving of the front easement for parking purposes shall be permitted.

Commented [ALY1]: examine

C. Lawn sprinkler systems and landscaping may be placed in the 6' PUE easements as permitted by the Code of Ordinances or the Land Development Code.

D. In the C, CC, I, INST, MX, MXB, MX7, NC, P, and SC zoning districts, paved off-street parking areas, paved driveways, sidewalks, walkways at ground level, lawn sprinkler systems, or landscaping may be placed in an easement provided that all other requirements of the Code of Ordinances or the Land Use and Development Regulations Code are met.

Commented [ALY2]: wells?

E. Nothing in this section shall prohibit the construction of seawalls, davits, docks, or other structures as permitted by the Cape Coral Code of Ordinances.

F. If a utility removes, damages, or disturbs the construction or other material within an easement as allowed by this section, the property owner shall be responsible for the cost of its removal, relocation, repair, or replacement. If any plant material in an easement required by § 5.2 of the Land Development Code is removed or damaged, the property owner shall replace all such material within 30 days of the completion of the utility work. In addition, prior to issuing a permit to locate, place, construct, or install any structure, construction, driveway, or other material in an easement, the city may require the property owner to agree to indemnify and to hold the city harmless from any or all costs or expenses incurred as a result of such location, placement, construction, or installation in the easement.

G. The city may deny applications to place wells, fences, walls, or other materials in an easement if such would conflict with existing or proposed utilities or drainage functions.

Section. 5.1.7. Required visibility triangles.

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As an aid to allow for safe operation of vehicles, pedestrians, and cyclists in the proximity of intersecting streets, driveways, alleys, and bicycle paths, there shall be limitations on the height of fences, walls, gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures as visually depicted in the Cape Coral Engineering and Design Standards and as follows:

A. All landscaping and signs within the visibility triangle shall provide unobstructed visibility between 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard.

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B. The property owner shall be responsible for maintaining all landscaping within the visibility triangle.

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C. Landscaping, except required turf and ground cover, shall not be closer than five feet from the edge of any roadway and three feet from the edge of any alley or pavement.

D. It shall be unlawful for any person to plant or cause to be planted any tree or shrub or to place any structure in the public right-of-way without the necessary permit.

E. The elevation grades of the public right-of-way adjacent to private property shall not be altered.

F. The Community Development Director shall make the final determination regarding visibility triangles.

Section 5.1.8. Sidewalks and alleys.

A. Non-Residential Zoning Districts. As part of construction of each building erected in ~~the non-residential zoning districts~~ (C, CC, I, ~~INST~~, MX, MXB, MX7, NC, P, and SC ~~zoning districts~~, sidewalks shall be installed prior to the issuance of a certificate of occupancy pursuant to the standards and specifications set forth in the City of Cape Coral Engineering Design Standards.

B. All sidewalk, curbs, and gutters shall be constructed to the widths shown in the City of Cape Coral Engineering Design Standards, except where a sidewalk has been installed and the established width is less than five feet, the minimum width of the sidewalk to be installed shall be the width of the existing sidewalk.

C. All improvements in the public right of way such as curbing, street paving, and gutters shall be constructed according to the City of Cape Coral Engineering and Design Standards.

D. Lot owners who erect buildings or change the use on only a portion of a lot must provide the curbs, sidewalks, and gutters for the entirety of the property, as required by this subsection, which shall be at the expense of the lot owner.

E. As part of the construction of each building erected in the C, CC, I, INST, MX, MXB, MX7, NC, P, and SC zoning districts adjacent to a platted alley, a portion of the alley shall be improved prior to the issuance of a certificate of occupancy. Such alley portion shall be constructed in accordance with the Engineering Design Standards along the length of the property line of the site lying adjacent to the platted alley. In addition to new construction in the C, CC, I, INST, MX, MXB, MX7, NC, P, and SC zoning districts, alterations to existing sites lying adjacent to a platted alley shall be required to make the alley improvements required by this section if the value of such alterations exceeds 50% of the replacement value of the site improvements. These improvements include parking areas, internal curbing, and retention areas but exclude internal, previously existing modifications to the building.

G. Payment in Lieu of Construction. At the discretion of the City, the City may accept payment in lieu of construction for all or part of the off-site improvements required by §5.9.1A. For projects where payment in lieu of construction will be employed, the developer shall submit to the City 110% of the estimated cost of the improvements as prepared by a professional engineer licensed in the state of

Commented [ALY4]: Current code or new?

Commented [ALY5]: Talk about districts

Commented [ALY6]: Check for consistency with 50% rule

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Florida, which shall be reviewed and approved by the City. The developer shall provide the City with payment for all construction costs prior to the issuance of a development permit for the site.

- H. Residential. As part of the construction of each building erected in the R1, RML, RMM, RE, and A zoning districts, sidewalks shall be required adjacent to streets designated for sidewalks by the Comprehensive Plan Traffic Circulation Element and Bicycle Pedestrian Plan. [This does not apply to existing structures that are being remodeled or repaired.](#)

Section 5.1.9. Maintenance of city rights-of-way.

All property owners shall be responsible to either maintain or construct the city-owned right-of-way lying between their property boundaries and the city pavement, to include the following standards.

- A. Prior to preparation of a building lot for construction, the building permit holder shall obtain the correct swale flow line elevations from the Engineering Department and proceed immediately to create the required swale needed to allow continuous uninterrupted flow of stormwater throughout the construction process.
- B. During construction or reconstruction straw bales or other approved erosion control devices shall be placed in the swale adjacent to both property lines to impede all foreign matter from entering the stormwater system. The erosion control devices shall remain in place until placement of final sod in the right-of-way.
- C. No excavated material or construction material shall restrict stormwater flow within the swale area.
- D. Upon [issuance of the final](#) certificate of occupancy, the owner shall maintain the swale indefinitely to the same standard that is applied to privately-owned property.
- E. All pavement cuts must be repaired to meet or exceed engineering design standards.

Section 5.1.10. Building numbers and addresses.

All buildings in the City of Cape Coral shall display a proper building number at least four feet from the ground level. All building numbers shall be visible from the public right-of-way which the front of the building faces. Building numbers of sufficient size which are affixed to both sides of mail boxes on such right-of-way or building numbers which are affixed to lawful signs not attached to the building may be substituted for number affixed to buildings.

Section 5.1.11. General regulations for lots, yards, and setbacks.

- A. Double frontage other than corner lots. Double frontage other than corner lots shall meet front yard regulations on all adjacent streets.
- B. Corner lots. In the SC and MXB zoning district(s), corner lots shall be deemed to have front lot lines abutting all street right-of-way lines. For corner lots in all other zoning districts, the following shall apply:

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1. The front of any building site shall be determined by the lesser dimension of a single lot (not building site). This frontage shall have the established setback for the particular zoning district, but in no instance be less than 25 feet.
 2. The remaining street frontage shall have a setback of no less than ten feet in all zoning districts. The remaining street frontage shall be maintained as a front yard and the regulations for fences, shrubbery, and walls of this ordinance shall apply.
 3. On sites bounded by three streets, one lot line shall be designated by the Director as the rear and maintained as the rear setback of that zoning district. For purposes of this section, all but the rear yard shall be maintained as a front yard and the regulations for fences, shrubbery, and walls of this ordinance shall apply.
 4. The front of a single-family residential building shall not be offset from the front property line by an angle greater than 45 degrees.
- C. No parcel shall be reduced below the minimum dimensional requirements in the zoning district.

Section 5.1.12 Single-family residential standards

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

- A. In the R1 and RE zoning districts only one single family residence shall be permitted per parcel.
- B. Ornamental walls. Ornamental walls attached to the principal building shall have the following requirements
 1. Ornamental walls shall not be higher than four feet at any point where they extend beyond the roof overhang and into the side setback.
 2. Ornamental walls may extend into the side setback but shall not extend into the six-foot perimeter easements.
 3. An ornamental wall not to exceed 30 inches in height may be installed in the front yard.
 4. Ornamental walls may be in the form of a planter.
 4. A planter may be incorporated into the construction of a wingwall.
- C. Water discharge. All gutter downspouts or similar water discharge devices shall direct the discharge to the front or rear property lines.

Section 5.1.13 Multi-family residential.

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

A. Distance between buildings.

1. Clustered buildings. Buildings may be constructed on proper building sites in cluster style providing a minimum of 20 feet is maintained between the buildings up to a height of 38 feet.
 - a. One foot shall be added to the 20-foot distance for every foot of height increase over 38 feet.
 - b. Carports will not be considered in determining the 20-foot distance between buildings.

B. Water discharge.

1. Water discharge. All gutter downspouts or similar water discharge devices shall direct the discharge to the front or rear property lines.
2. This provision shall be applicable only to duplexes in multi-family residential uses.

Section 5.1.14 Dumpster Enclosures.

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

A. Screening.

1. Except for the SC and MXB Districts, when commercial trash receptacles are in a rear yard that abuts an alley, all commercial trash receptacles shall be enclosed from view on at least three sides by an opaque visual barrier.
2. When a commercial trash receptacle is visible from an adjacent property or an adjacent street, at ground level, then the commercial trash receptacle shall be enclosed on the fourth side by an opaque gate that shall be the same height as the opaque visual barrier on the other three sides.
3. The principal structure may be used as the opaque visual barrier on one or more sides provided the commercial trash receptacle is completely concealed from view.

B. Materials.

1. The following materials, either singly or in any combination, are the only materials that may be used for the opaque visual barrier and gate:
 - a. Wood fencing;
 - b. Plastic or vinyl fencing;

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- 460
- 461 c. Concrete block and stucco wall;
- 462
- 463 d. Brick wall; or
- 464
- 465 e. Formed, decorative, or precast concrete.
- 466
- 467 2. Chain link fencing, whether singly, or combination with other materials, including plastic slats,
- 468 shall be prohibited.
- 469
- 470 3. Gates shall be constructed of a durable, opaque material, consistent or complimentary in color
- 471 with the enclosure and of a height to screen the container.
- 472
- 473 C. Location.
- 474
- 475 1. Commercial trash receptacles shall not be located on unimproved sites.
- 476
- 477 2. Commercial trash receptacles and accompanying visual barriers, are subject to the following
- 478 minimum setbacks:
- 479
- 480 a. Six feet from the front property lines in the SC and MXB Districts.
- 481
- 482 b. Three feet from alley rights-of-way.
- 483
- 484 3. When located in a public utility or drainage easement, the property owner shall be solely
- 485 responsible for removal of the commercial trash receptacle as well as for any cost resulting from
- 486 disturbance, damage, destruction, or restoration of the receptacle resulting from work associated
- 487 with utilities in such easement. Prior to issuing a permit, the City may require the property owner
- 488 to agree, in writing, to indemnify and to hold the city harmless from any costs or expenses
- 489 resulting from placing a commercial trash receptacle in an easement.
- 490
- 491 4. A development may place its commercial trash receptacle on an adjoining property provided that
- 492 the premises are adjacent to or directly behind the development and written consent of the
- 493 adjoining property owner is submitted to and approved by the Director of the Department of
- 494 Community Development. The adjoining property owner may revoke this consent upon written
- 495 notice to the development and the Director of Community Development. The development shall
- 496 have 30 days from revocation to relocate the commercial trash receptacle and to comply with all
- 497 requirements of this section.
- 498
- 499 5. Developments within 25 feet of a City-owned parking lot may, upon approval by the Director of
- 500 Community Development, locate enclosures on the City-owned parking lot. Approval may be
- 501 revoked at any time, upon reasonable notification, by the City.
- 502
- 503 D. Dimensions. The dumpster enclosure shall have a minimum interior dimension of ten feet by ten feet
- 504 and a height at least six inches higher than the enclosed commercial trash receptacle. Neither the

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dumpster enclosure or the gate providing access to the commercial trash receptacle shall be considered a fence or a wall pursuant to the City Code of Ordinances or Land Development Code.

E. All dumpster enclosures shall be located so that a sanitation vehicle has physical access to the commercial trash receptacle that is adequate for safely servicing the facility.

F. Each commercial trash receptacle shall be located on a pad that is made of concrete.

G. All solid waste or other refuse, including recycling materials stored in commercial trash receptacles shall be concealed by a lid attached that shall remain in the closed position unless materials are being placed into the receptacle or the receptacle is being serviced. No material shall be permitted to overflow the receptacle.

H. In the event a commercial trash receptacle is in a dumpster enclosure that includes a gate, regardless of whether such a gate would have been required pursuant to this section, the gate shall be of a type that opens sufficiently to allow unimpeded access to the trash receptacle by the sanitation vehicle and shall have drop pins, hooks, or other devices installed to hold the gate open while the receptacle is being serviced. All gates shall remain closed unless the receptacle is being serviced.

I. Deviations. In the event an owner is unable to comply with the requirements of this section, the owner may request an administrative deviation from the Director of the Department of Community Development. In determining whether to approve an administrative deviation, the Director shall consider factors such as dimensions of the property, site constraints such as existing development, or other location factors that may make compliance with this section impossible or impractical. The determination to approve an administrative deviation shall be at the sole discretion of the Director.

J. Maintenance. Commercial trash containers shall be maintained in a manner which is not a nuisance to surrounding uses.

1. The receptacle shall be stored in the enclosure and the gate(s) to the enclosure shall remain closed at all times unless it is being accessed at that time.

2. Refuse may not be left outside of the enclosure or on the ground within the enclosure.

CHAPTER 2 ACCESSORY STRUCTURES

Section. 5.2.1. General Requirements.

A. This chapter shall pertain to residential properties unless otherwise specifically stated herein. Accessory structures on non-residential properties shall be reviewed per the standards of that zoning district. Agriculturally zoned properties shall not be considered residential for purposes of this section.

B. Accessory buildings shall be constructed to conform to the minimum building requirements and shall meet all other regulations applicable to the district.

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- 550 C. Residential accessory buildings shall be in the rear yard, other than those listed in §5.2.1. D, and shall
551 comply with all of the requirements found in this Section.
552
- 553 D. Accessory structures, such as pergolas, arbors, trellises, and flag poles may be in the rear, side, or
554 front yard of the primary structure. Fences and sheds may be permitted in the rear or side yard of the
555 primary structure.
556
- 557 E. No accessory structure, including fences, shall be constructed on any residential parcel not containing
558 a primary structure.
559
- 560 F. Accessory buildings shall be elevated above the base flood elevation (BFE) or provide hydrostatic
561 vents consistent with FEMA regulations.
562
- 563 G. All nonconforming accessory structures shall be subject to the requirements of Article 8
564 Nonconformities.
565
- 566 H. Any accessory structure not listed in this chapter may be reviewed and considered for approval
567 through a similar use determination process.
568
- 569 I. In non-residential districts, all accessory structures shall be reviewed and held to the same standard
570 as a non-residential structure.
571
- 572 J. Setbacks shall be measured from the property line and must be considered in addition to all other
573 locational requirements.
574

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575 **Table 5.2.1.A. Setback Requirements for Accessory Structures**

Residential Accessory	Setback – measured from property line			Maximum Building Height	Separation Distance
	Front Yard	Side Yard	Rear Yard		
Arbors, trellises, pergolas	Sec 5.17	7.5 ft.	10 ft.	14 ft.	N/A
Courts and Playing Surfaces	X	7.5 ft.	10 ft.	N/A	N/A
Decks, unenclosed	X	7.5 ft.	10 ft.	30 inches	N/A
Detached Garage	X	SAP	10 ft.	14 ft.	5 ft.
Fences and Walls	Per Sec 5.1.12				N/A
Flagpoles	15 ft.	7.5 ft.	10 ft.	35 ft.	N/A
Fountains and Sculptures	15 ft.	10 ft.	10 ft.	Per sec 5.1.15	N/A
Gazebo	X	7.5 ft.	10 ft.	10 ft.	5 ft.
Greenhouse	X	SAP	SAP	15 ft.	5 ft.
Detached guesthouse/ADU's	X	SAP	SAP	14 ft.	5 ft.
Swing sets and similar play structures	X	7.5 ft.	6 ft.	8 ft.	N/A
Solar Photovoltaic (PV) Arrays, at grade	X	7.5 ft.	10 ft.	9 ft.	N/A
Sheds	X	7.5 ft.	10 ft.	14 ft.	5 ft.
Sunshelter	X	7.5 ft.	6 ft. or over a dock	14 ft.	5 ft.
Swimming pools and reflecting pools	X, RE23 acres SAP	7.5 ft., RE23 acres SAP	10 ft., RE23 acres SAP	30 inches	N/A
Swimming Pool Screen enclosure	X, RE23 acres SAP	7.5 ft., RE23 acres SAP	10 ft., RE23 acres SAP	SAP	N/A

X Not permitted
SAP Same as Principle Structure
N/A Not Applicable

Section. 5.2.1. Arbors, trellises, and pergolas.

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

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D. Attached pergolas.

1. Attached pergolas may be placed over the front entrance or walkway into a residence, and must not extend beyond the most forward portion of the primary structure.
2. A pergola is considered attached if a minimum of 20% of the pergola's perimeter is attached to the primary structure.
3. A pergola that is attached to a previously-attached pergola is considered to be an extension of the original attached pergola; the enlarged pergola must abide by the setback requirements listed in Table 5.1.1.A.

E. Pergolas, generally.

1. Pergolas must conform to all zoning requirements in terms of height and setbacks.
2. The only exception to the prohibition of the placement of a pergola in the rear setback is for pergolas on docks.
3. If placed in the rear yard of a waterfront property, or on a dock, pergolas must not unreasonably restrict or block the view of the canal or waterway of an adjoining lot.

Section. 5.2.2. Attached and detached garages.

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

B. For attached garages, the following shall apply:

1. A garage shall be considered attached if it shares at least a four-foot length of common wall with the principal structure. Attachment through a roof structure only shall not be adequate to consider the garage attached.
2. For purposes of this LDC, an attached garage shall be considered to be a part of the principal structure and shall comply with all district regulations for the zoning district in which it is located.
3. An operable garage door capable of providing access to the garage by a motor vehicle is required.
4. A driveway providing vehicular access to the garage is required and shall be constructed and maintained in a condition that is safe and free of potholes, and in accordance with the City of Cape Coral Engineering Design Standards.
5. The garage shall not be included in determining the living area.

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

C. For detached garages, the following shall apply:

1. A detached garage shall meet all of the setback requirements of the principal structure.
2. A detached garage shall be on the same parcel as the principal structure.
3. A detached garage shall not exceed 800 square feet in area.
4. The height of a detached garage shall not exceed 14 feet in height when measured according to the definition of "building height" in the Land Development Code.
5. An operable garage door capable of providing access to the garage by a motor vehicle is required.
6. The maximum size and height restrictions shall not apply in the RE district.
7. No plumbing shall be allowed in a detached garage except that a single one-compartment sink shall be allowed.
8. The exterior building materials of a detached garage shall conform to the exterior building materials of the principal structure.
9. A parcel may contain both an attached and detached garage, but only one detached garage shall be permitted.

Section. 5.2.3. Courts and playing surfaces.

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

1. Lighting is prohibited on all outdoor recreation facilities on all properties containing single-family detached and duplex dwellings.
2. An opaque landscape hedge shall be planted between a recreational facility and a side or rear property line of different ownership. The landscaping shall be maintained at a minimum of four feet in height and shall be provided along the entire length of the recreational facility.

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

1. Lighting may be installed to allow evening use of the facility. All outdoor lighting shall be installed and maintained in such a manner that the light falls substantially within the perimeter of the property through the use of shielding and limitations on intensity. In no instance shall the facility lighting create glare off of the property exceeding 0.3 footcandles which impacts any roadway. Directional lighting may not be installed which shines directly into any dwelling unit.

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2. An opaque landscape buffer, a minimum of four feet in height, shall be installed which shields the recreational facility from any adjacent right-of-way. Fencing may be installed to a maximum height of ten feet.

Section. 5.2.4. Decks.

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

Section. 5.2.5. Fences and walls.

A. General Requirements.

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

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- 733 7. Fencing for critical public **utilities** infrastructure, including water and wastewater facilities and
734 electric and natural gas facilities, which may enclose either an entire site or only an area
735 containing equipment, may be maintained at a height of eight feet. Barbed wire, spire tips,
736 sharp objects, or electrically charged fencing are permitted on the top of fencing around critical
737 infrastructure sites or equipment, however, the height of the fencing together with any barbed
738 wire, spire tips, sharp objects, or electrically charged fencing may not exceed eight feet, and
739 only the top two feet may contain barbed wire, spire tips, sharp objects, or electrically charged
740 fencing.
741
- 742 8. A fence shall not be constructed on unimproved property.
743
- 744 9. No wall or fence of any kind whatsoever shall be constructed on any lot until after the height,
745 type, design, and location has been approved in writing and proper permit issued by the
746 Director.
747
- 748 10. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must
749 immediately enclose the recreational facility. Hooded backstops for diamond sports may be
750 increased to a maximum height of 28 feet. For sports other than diamond sports, backstops
751 may be increased to a height of 12 feet. All fencing at recreational facilities must be constructed
752 of at least nine-gauge fence fabric and schedule 40 tubing.
753
- 754 11. A may be maintained at a height greater than otherwise allowed herein if a higher fence height
755 is required by the city for the purpose of screening a special exception use.
756
- 757 12. A fence or wall shall be constructed of one or more of the following materials:
758
- 759 1. Wood (decay resistant or pressure treated only), shall be painted or stained;
 - 760
 - 761 2. Concrete block with stucco (CBS);
 - 762
 - 763 3. Reinforced concrete with stucco;
 - 764
 - 765 4. Stone or brick, including cast (simulated) stone or brick;
 - 766
 - 767 5. Concrete;
 - 768
 - 769 6. Wrought iron;
 - 770
 - 771 7. Aluminum; or
 - 772
 - 773 8. Plastic or vinyl.
 - 774
- 775 For fences or walls located in a public utility or drainage easement, only the following
776 materials are permitted:
777
- 778 1. Wood (decay resistant or pressure treated only);

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2. Aluminum;

3. Chain-link without slats; or

4. Plastic or vinyl.

B. Residential Zoning Districts.

1. A No fence shall be maintained at a height greater than six feet, and no wall or fence shall be erected or placed within the front setback lines of any residential lot, except if a residential use abuts property used for commercial or professional purposes, a fence may be maintained at a height up to eight feet along the side(s) of the property which abut(s) the property or properties containing commercial or professional uses. For purposes of this section, a property shall be deemed to abut another property if the two properties are either immediately adjacent to each other or separated only by an alley. Properties separated by a street, canal, lake, or other body of water shall not be deemed to be abutting properties.

2. Any fencing within 20 feet of the rear property line on waterfront sites must be open mesh above a height of three feet. The Director may, in his or her discretion, approve minor projections above the restricted heights for architectural features.

3. No part of a fence shall be located forward of the forward-most part of the side of the principal structure to which the fence is closest. In no instance shall a fence enclose any portion of the front facade of the principal structure.

4. No fence, hedge, or other growth shall be erected on any residential property within the city which shall unreasonably restrict or block the view of a canal or other waterway from an adjoining lot, or except as required to screen a special exception use. No fence or hedge or other growth shall be erected on property which would obstruct the view of either a pedestrian or driver of a moving vehicle so as to create a hazard to the health and welfare of its citizens.

5. Multi-family developments over 1 acre in size may construct a fence or wall around the entire perimeter of the property or in a location not otherwise allowed by this subsection.

C. Non-Residential and Mixed-Use Zoning Districts.

1. Construction of fences must meet the following restrictions:

a. Maximum height: six feet (except that property in a commercial, professional, or mixed-use zoning district, which contains a non-residential use, and which abuts a residential use, whether such use is in a residential zoning district or mixed-use zoning district, may erect a fence up to eight feet in height along the side(s) of the property which abut(s) a residential use. A property shall be deemed to abut another property if the two properties are immediately adjacent to each other or separated by only an alley. Properties separated by a street, canal, lake, or other body of water shall not be deemed to be abutting properties.

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b. Required setbacks:

Front	No part of a fence shall be located forward of the forward-most part of the side of the principal structure to which the fence is closest. In no instance shall a fence enclose any portion of the front facade of the principal structure.
Side (not on a corner site)	None
Side (corner site)	None for free-standing residential uses in mixed-use zoning districts; 7 feet for non-residential and compound uses in Marketplace Residential zoning district; 10 feet for non-residential and compound uses in all other commercial, professional, and mixed-use zoning districts
Rear (not on alley)	None
Rear (on alley)	10 feet

2. Industrial zoning district:

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

3. Agricultural zoning district:

- a. Maximum height: eight feet.
- b. Required setbacks: none.

4. Institutional zoning district:

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

6. Preservation zoning district:

- a. Maximum height: eight feet.

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b. Required setbacks: none.

7. South Cape and BMX zoning district(s):

a. Maximum height.

1. When placed in front yards, 42 inches.

2. When not placed in front yards, six feet (except that a property which contains a non-residential use, and which abuts a property containing a residential use, whether such use is in a residential zoning district or mixed-use zoning district, may erect a fence up to eight feet in height along the side(s) of the property which abut(s) a property containing a residential use). For purposes of this subsection, a property shall be deemed to abut another property if the two properties are either immediately adjacent to each other or separated by only an alley. Properties which are separated by a street, canal, lake, or other body of water shall not be deemed to be abutting properties.

3. Fences, walls, and hedges may be maintained at a height greater than otherwise allowed herein if a higher height is required by the city for the purpose of screening a special exception use.

4. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must immediately enclose the recreational facility. Hooded backstops for diamond sports may be increased to a maximum height of 28 feet.

b. Required setbacks:

Front	None
Side or rear (not on alley)	None
Side or rear (on an alley)	15 feet from the alley centerline
Abutting a navigable waterway	10 feet

Section.5.2.6. Flags and Flagpoles.

A. Residential zoning districts or sites with residential uses shall be limited to no more than two flagpoles.

B. In non-residential zoning districts, in mixed use zoning districts, and on sites containing non-residential uses in residential zoning districts, no more than three flagpoles are allowed on a site.

C. Flagpoles shall not exceed 35 feet in height other than those on non-residential properties abutting Pine Island Road which shall not exceed 80 feet in height.

D. The installation of a flag standard on a site does not require a permit. The number of flags that may be displayed on a flagpole or on a single flag standard is not limited.

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- E. For the purposes of this article, flags on non-residential, private property which contain a symbol other than that of a nation, government, political subdivision, or other entity shall be presumed commercial; however, it shall be considered a rebuttable presumption, which may be overturned by the Director if the evidence contradicting it is true or if a reasonable person of average intelligence could logically conclude from the evidence that the presumption is not valid.

Section. 5.2.7. Fountains, reflecting pools, and sculptures.

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

Section. 5.2.8. Gazebos, sun shelters, and similar structures.

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

Section. 5.2.9. Guest houses.

- A. Detached structures serving as a guest house shall comply with the following:
1. May not exceed one story.
 2. Maximum building height shall not exceed 14 ft.
 3. May not exceed 30% of the area of the primary structure or 800 square feet, whichever is less.
- B. A guest house is not a dwelling unit to be rented, it provides only guest accommodations and shall meet the following requirements:
1. A guesthouse may not contain more than two bedrooms.
 2. A guesthouse may not contain a kitchen or the electrical or gas connections to install a stove or oven.
 3. An additional parking space must be provided for a guesthouse.

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Section. 5.2.10. Play or recreation equipment.

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

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

Section. 5.2.11. Sheds and greenhouses.

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

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

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

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

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

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

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

a. A row of shrubs planted along both sides of the shed and extend at least five feet beyond the walls of the shed or greenhouse.

b. All shrubs required for screening within this subsection shall be a minimum of 32 inches in height and be in at least a seven-gallon container size at the time of planting. All shrubs shall be planted no more three feet apart as measured on center.

c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be maintained in good condition as long as the shed requires screening pursuant to this subsection.

3. A shed or greenhouse that would be visible from the right-of-way or from the nearest adjoining property, but for an existing fence, wall, or landscaping that shields the shed or greenhouse is exempt from additional screening requirements. In the event the screening is removed or altered to cause the shed or greenhouse to be visible from the right-of-way or nearest adjoining property,

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the shed or greenhouse shall be screened in accordance with those requirements outlined above or moved to fully comply with this Section.

4. On a double frontage lot, sheds or greenhouses shall be screened from view from rights-of-way and adjoining properties. **See Diagram 5.1.12. Double frontage lot fence and shed/greenhouses.**
5. On double frontage lots, sheds or greenhouses in the rear yard shall be setback to a distance equivalent to the front setback of any adjacent lots that are not double frontage lots.

Section. 5.2.12. Solar Photovoltaic (PV) Arrays.

A. General requirements.

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

B. Building-mounted PV systems.

1. Roof mounted:
 - a. Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof, for structures with gable, hip, or gambrel roofs and shall not extend higher than 10 feet above the surface of the roof when installed on flat or shed roof.
 - b. The solar collector surface and mounting devices shall be set back not less than one foot from the exterior perimeter of a roof for every one foot that the system extends above the roof surface on which the system is mounted. Solar energy systems that extend less than one foot above the roof surface shall be exempt from this provision.
2. Wall mounted or flush to a building or structure:
 - a. PV arrays are allowed on the walls or sides of any building or structure but shall not encroach into the required front yard setback and may not encroach into side and rear yard setback by more than three feet and shall not extend into or over an easement.

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b. A minimum of nine feet vertical distance shall be maintained under the PV array where needed to provide adequate clearance for pedestrians.

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

C. At-grade PV systems.

1. Applicability. The following regulations apply to any PV array that is erected or installed at-grade (ground level).

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

3. Height. The maximum height of any at-grade PV array shall not exceed twelve feet.

4. Residential location. For PV arrays in or abutting residential zoning districts, the minimum setbacks are as follows:

a. PV arrays up to nine feet in height shall be setback at least seven and one-half feet from the rear and interior side property lines;

b. Arrays greater than nine feet in height shall be setback at least 10 feet from such property lines.

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

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

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

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

Section. 5.2.13. Swimming Pools.

A. The construction of portable or permanent swimming pools or hot tubs is prohibited in the front yard of any residential lot, other than RE zoned parcels greater than 3 acres.

B. Pools, hot tubs, and pool decks in rear or side yards may not exceed a height of 30 inches above grade.

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C. All swimming pools and enclosures constructed or erected on any parcel, other than accessory to a single-family detached or duplex residence, shall meet the minimum yard requirements specified for buildings or structures in the zoning district the construction occurs.

D. Portable swimming pools. Portable swimming pools are prohibited in the front or the side of any residential lot. Portable swimming pools capable of holding 24 inches in depth or more of water shall be anchored into the ground sufficiently to prohibit movement during a hurricane. Portable pools shall be enclosed by a fence or other protective material, or otherwise shall be covered, when not in use, by a protective cover so that a child cannot accidentally enter the pool. Drainage of pools so as to permit the water to run onto property of other people is prohibited. Wading or splash pools not capable of holding 12 inches or more of water are exempt from the provisions of this subsection.

Section. 5.2.14. Unattended donation bin.

Commercial developments may place a donation bin in the parking lot if the parking lot contains a minimum of 125 parking spaces. All donation bins must meet the following requirements:

- A. Bins may not be in a required parking space or a drive aisle;
- B. Bins may not be placed in required landscape buffers and trees may not be removed in order to locate a bin;
- C. Bins shall be maintained in good condition and appearance with no structural damage, holes, or visible rust and shall be free of graffiti;
- D. Bins shall be locked or otherwise secured;
- E. Bins shall contain the following contact information in two-inch type visible from the front of each unattended donation box: the name, address, email, and phone number of the permittee and operator; and
- F. Bins shall be serviced and emptied as needed, but at least once per month, or within five business days of a request by the City. Boxes, garbage, and donation goods shall not be permitted to accumulate around unattended donation bins.

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

Section 5.3.1. Borrow pits; regulation of removal or extraction of dirt, soil, sand, rock, oil, gas, etc.; procedures.

- A. Removal or extraction of dirt, soil, and sand.
 - 1. All borrow pits from which dirt, sand or soil has been removed shall be completely enclosed by a fence or earth berm at least six feet in height.

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- 1127 2. Prior to any such removal or excavation, the following shall be submitted to the Department of
1128 Community Development: drainage plans, aerial photo of the site, a plan for development of
1129 the total site when the removal is completed, the estimated costs of restoring the site to a safe
1130 and developable condition, and a deposit of funds or other financial instruments payable to the
1131 City of Cape Coral is required equal to the estimated cost of restoring the site. The estimated
1132 cost for restoring the site shall include fence or berm removal, lake bank sloping and
1133 stabilization, site grading, seeding or mulching, drainage, and any other items that the
1134 Department, Hearing Examiner, or Council deems appropriate to ensure that the site is restored
1135 to a safe and usable condition. The plans shall be reviewed by the Hearing Examiner and written
1136 recommendation made to the Council prior to application for an excavation permit.
1137
- 1138 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner
1139 subject to final approval of the City Council.
1140
- 1141 B. Removal or extraction of rock, gravel, shell, aggregate, or marl.
1142
- 1143 1. All such excavations shall be sealed by fencing or grading or other device from general public
1144 access. All entrances to said excavation shall be fenced and locked during nonbusiness hours.
1145
- 1146 2. Prior to any such removal or excavation the following shall be submitted to the Department of
1147 Community Development: drainage plans, aerial photograph of the site, a plan for development
1148 of the total site when the removal is completed, the estimated costs of restoring the site to a
1149 safe and developable condition, and a deposit of funds or other financial instruments payable
1150 to the City of Cape Coral is required equal to the estimated cost of restoring the site. The
1151 estimated cost for restoring the site shall include fence or berm removal, lake, bank sloping and
1152 stabilization, site grading, seeding or mulching, drainage, and any other items that the
1153 Department, HEX, or Council deems appropriate to ensure that the site is restored to a safe and
1154 usable condition. The plans shall be reviewed by the HEX and written recommendation made
1155 to the Council prior to application for an excavation permit.
1156
- 1157 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner
1158 subject to final approval by the City Council.
1159
- 1160 4. No excavation or extraction may be made with explosives without express permission of the
1161 Council. Excavation or borrow pit permits involving explosives must be renewed every 90 days.
1162
- 1163 C. Excavations, removal, or extraction for purposes of oil or gas exploration or production.
1164
- 1165 1. All such excavations, removals, or extractions shall be sealed by fencing or grading or other
1166 device from general public access. All entrances shall be fenced and locked during nonbusiness
1167 hours.
1168
- 1169 2. Prior to any such excavation, removal, or extraction the following shall be submitted to the
1170 Department of Community Development: drainage plans, aerial photograph of the site, a plan
1171 for development of the total site when the removal is completed, the estimated costs of
1172 restoring the site to a safe and developable condition, and a deposit of funds or other financial

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instruments payable to the City of Cape Coral is required equal to the estimated cost of restoring the site. The estimated cost for restoring the site shall include fence or berm removal, lake, bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other items that the Department, Hearing Examiner, or Council deems appropriate to ensure that the site is restored to a safe and usable condition. The plans shall be reviewed by the HEX and written recommendation made to the Council prior to application for an excavation permit. No permit to drill a gas or oil well shall be issued unless City Council approves the application for such permit by resolution.

3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner subject to final approval by the City Council.
4. No excavation or extraction may be made with explosives without express permission of the Council. Excavation permits involving explosives must be renewed every 90 days.
5. No person or entity may engage in any oil and gas exploration or production that utilizes well stimulation within the corporate boundaries of the City of Cape Coral or, consistent with F.S. §377.24(6), within the tidal waters of the state abutting or immediately adjacent to the corporate limits of the municipality, or within three miles of the City's corporate limits extending from the line of the mean high tide. As used in this section, the term "well stimulation" shall mean a well intervention, exploration, operation, or maintenance procedure performed by injecting fluid into a rock formation in order to increase production at an oil or gas well by improving the flow of hydrocarbons from the formation into the wellbore. Well stimulation does not include routine well cleaning that does not affect the integrity of the well or the formation.

D. Procedures.

1. The applicant shall meet with the Director and other city staff deemed appropriate by the Director prior to a public hearing with the Hearing Examiner to review staff concerns and to establish the basis for determining cost estimates as required.
2. All excavation or borrow pit requests shall be reviewed by the city staff, the Lee County Health Department, and the Hearing Examiner. After their review and recommendation, the City Council shall call for a public hearing on the application and shall determine whether or not said application shall be granted.
3. If the conceptual plan as presented by the applicant will require a zoning amendment for development, the applicant must prepare and submit a planned development project for the entire project prior to approval of the excavation.
4. If the excavation or borrow pit application is approved, the applicant may then apply for an excavation or borrow pit permit.

Section. 5.3.1. Land Clearing, Filling, and, Excavation.

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- 1219 A. Proposed alterations to ground elevation or vegetative cover not associated with an approved SDP,
1220 Final Subdivision Plan or building permit shall be submitted to the Community Development Director
1221 with an application for a permit for Land Clearing and Fill containing the required plans and
1222 documentation. The director may require certification by a registered professional engineer that site
1223 improvements have been made in accordance with permits issued pursuant to this Section. The
1224 following activities shall require a site improvement permit:
1225
1226 1. Clearing of trees and vegetation without disturbing the soil surface;
1227
1228 2. Clearing including stump removal and grubbing of top soils; and
1229
1230 3. Filling.
1231
1232 B. Maintenance:
1233
1234 1. The applicant shall be responsible for the maintenance, repair, and replacement of all existing
1235 vegetation as may be required by the provisions of Chapter 8.
1236
1237 2. In buffer areas and areas outside the impervious cover, plant material shall be tended and
1238 maintained in a healthy growing condition and free from refuse and debris. Plant materials
1239 required by Chapter 8 of this article which is unhealthy, dying, or dead shall be replaced during
1240 the next planting season.
1241
1242 C. Excavation involving more than surface contouring for erosion control is only permitted with approval
1243 of a Site Development Plan or Final Subdivision Plan.
1244
1245 D. In all districts, other than agriculture zoning, the city shall not permit any new borrow pits or mining
1246 activities, however, reshaping or restoration of existing borrow pits may only be permitted incidental
1247 to an approved Site Development Plan or Final Subdivision. Agriculturally zoned lands may propose
1248 new borrow pits as a Special Exception.
1249
1250 E. The following land clearing activities shall not require a permit:
1251
1252 1. Removal of invasive plants without disturbance of the soil; or
1253
1254 2. Land clearing for agricultural uses.
1255

Section. 5.3.2. Construction Site Maintenance.

1256 Construction sites shall be maintained in a manner which is non-deleterious to nearby properties. The
1257 requirements of this Section set minimum standards for the operation of the project site to eliminate or
1258 minimize impacts to the site and to the neighborhood to include vehicle parking and loading area, traffic
1259 control, fencing, placement of materials, safety, neatness, and cleanliness.
1260
1261
1262

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- 1263 A. Construction site management plan required. All development and building permit applications must
1264 be accompanied by a construction site management plan which includes the submittal requirements
1265 listed in Table 5.3.1, unless waived by the building official or development services manager.
1266
- 1267 1. Parking plan shall include:
- 1268
- 1269 a. Location of on-site and adjacent unpaved portion of the right-of-way parking and the
1270 maximum number of vehicles that will be parked along the unpaved portion of the right-of-
1271 way.
1272
- 1273 b. Parking plan for worker vehicles and machinery on the site.
1274
- 1275 c. A single access with dimensions.
1276
- 1277 2. A temporary fence location, height, and type shall comply with the following:
- 1278
- 1279 a. For the purposes of construction site screening only, chain link fencing is permitted and shall
1280 be faced with a screen mesh.
1281
- 1282 b. A maximum height of six feet in residential zoned properties and eight feet in commercially
1283 zoned properties.
1284
- 1285 c. Fencing may not be required in agriculture or preservation zoned properties, upon a
1286 determination by the Director.
1287
- 1288 3. Construction trailers, loading and unloading areas, and material storage areas shall not be stored
1289 in areas intended for stormwater retention or rain gardens.
1290
- 1291 4. Traffic control plans shall include:
- 1292
- 1293 a. Access points with dimensions;
1294
- 1295 b. Area to be stabilized and a written plan on staging of construction related traffic including
1296 adequate parking (both on and off-site); and
1297
- 1298 c. Plan for delivery of materials.
1299
- 1300 B. Approval of plan and waivers. The building official or development services manager shall review,
1301 approve, or deny the construction site management plan and is authorized to grant waivers from
1302 submittal requirements:
1303
- 1304 1. If the requirement is unrelated to proposed development;
1305
- 1306 2. If the impact of the proposed development is negligible in that submittal requirement area; or
1307
- 1308 3. If unusual site conditions do not allow full compliance with this Section.

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CHAPTER 4. MARINE IMPROVEMENTS.

Section. 5.4.1. Purpose and Intent

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

Section. 5.4.2. General Requirements.

- A. An applicant who disagrees with the measurement of the calculated waterway width by the city's Geographic Information System (GIS) may submit a survey of the waterway width, prepared by a professional surveyor licensed in the state of Florida, to support the applicant's contention that the calculated waterway width is inaccurate.
- B. No dock or piling shall be permitted that interferes with the right to navigate safely within the waterways of the city. In no event shall the navigable area be reduced to less than 50% of the calculated waterway width.
- C. The elevation of pilings shall not exceed 10 feet above the seawall cap or, if no seawall exists, 13 feet above mean water level.
- D. The elevation of the decking of a marine improvement shall not exceed two feet above the seawall cap, or if no seawall exists, five feet above mean water level. For marine improvements in the Caloosahatchee River, and for marine improvements in canals within 300 feet of the platted shoreline of the Caloosahatchee River, the elevation of the decking shall not exceed four feet above the seawall cap, or if no seawall exists, seven feet above mean water level.
- E. All pilings or mooring posts shall be offset a minimum of two and one-half feet from any storm drain outfall pipe. Such measurement shall be made from the outside edge of the outfall pipe to the center of the piling or mooring post.
- F. All docks permitted under this Section that project from a parcel with a seawall shall have a ladder extending from the dock into the waterway. No ladder extending from a dock into a waterway shall be made of wood.
- G. The property owner shall be solely responsible for compliance with all applicable provisions of the Lee County Manatee Protection Plan.
- H. Prior to the final inspection by the City, the owner shall submit a final signed and sealed survey showing that all construction is in compliance with the requirements of this Code.

Section. 5.4.4. Dimensional Standards

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A. Protrusions into waterway.

1. Marine improvements may extend 25% of the calculated waterway width or 40 feet, whichever is less, as measured from the water frontage line, provided the marine improvements are setback 12 feet from each extended side property line.
2. Marine improvements which extend six feet or less into a waterway such as captains' walks, as measured from the water frontage line, may extend the full length of the water frontage of the parcel.
3. Marine improvements in the Caloosahatchee River shall be subject to state and federal regulations.
4. Marine improvements for outside corner parcels, excluding a "T" intersection, of two canals, may extend into the waterways as follows:
 - a. Extend the two waterfrontage lines (Diagram 5.5.4.A.) of the property to a point equal to 25% of the canal width or 40 feet, whichever is less.
 - b. Then, in each intersecting canal, the extended waterfrontage lines shall run parallel to the waterfrontage lines and shall be setback 12 feet from the extended side property line.
 - c. The area formed by the aforesaid lines and area of intersection, shall be the area permitted for marine improvements.
5. Marine improvements for end parcels. Parcels at or adjacent to canal ends or parcels on lakes and basins (excluding outside corner parcels) are subject to the following:
 - a. Except for parcels governed by § 5.5.4.A.3, end parcels shall be permitted to have marine improvements projecting into the waterway up to a maximum of **30 feet**. Adjacent parcels shall be permitted to have marine improvements projecting into the waterway up to a maximum of 30 feet or 25% of the calculated canal width, whichever is less.

With respect to end parcels with at least 80 feet of water frontage line, no part of a marine improvement which extends more than six feet into a canal shall be located less than 12 feet from the ends of the water frontage line of the parcel.

With respect to end parcels with more than 40 feet, but less than 80 feet, of water frontage line, any part of a marine improvement which extends more than six feet into a canal shall be set back from the ends of the water frontage line of the parcel in accordance with the following formula: (Parcel Waterfrontage - 40 feet) x 0.3.

The foregoing restrictions shall apply to marine improvements projecting from adjacent parcels (based on the length of their waterfrontage lines) in the same manner as end parcels, except that on the side of the adjacent parcel that abuts an end parcel, a marine improvement

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may be built up to the side boundary of the adjacent parcel's marine improvement area, as determined pursuant to paragraph vi. Below (See **Diagram 5.5.4.E. and F.**

With respect to end and adjacent parcels with 40 feet or less of water frontage, no marine improvement shall extend more than six feet into the canal except in accordance with the following: $(\text{Parcel Waterfrontage} - 40 \text{ feet}) \times 0.3$. The foregoing restrictions shall apply to marine improvements projecting from adjacent parcels (based on the length of their waterfrontage lines) in the same manner as end parcels, except that on the side of the adjacent parcel that abuts an end parcel, a marine improvement may be built up to the side boundary of the adjacent parcel's marine improvement area, as determined pursuant to paragraph v. below.

With respect to end and adjacent parcels with 40 feet or less of water frontage, no marine improvement shall extend more than six feet into the canal except in accordance with the following:

- i. Such a parcel may have either a platform dock not more than ten feet wide and extending not more than 16 feet into the canal or not more than two finger piers (with or without a boat lift) that together total no more than six feet in deck width and that extend not more than 30 feet into the canal.
- ii. No marine improvement that projects more than six feet into the canal shall extend more than ten feet either side of the center point of the water frontage line of the parcel. Furthermore, no marine improvement shall extend beyond the ends of the water frontage line of the parcel. All marine improvements shall be centered on the centerline of the waterfront parcel's marine improvement area.

7. When a parcel is at the corner of a waterway so as to include water frontage (all under the same ownership) on both the side and end of a waterway, the property owner may install or erect a marine improvement that extends from the side of the waterway to a maximum distance of 25% of the calculated width of the waterway or 30 feet, whichever is less, and from the end of the waterway a distance of 30 feet into the waterway.
8. Except as otherwise provided herein for joint marine improvements, no marine vessel (or any part thereof) when secured in any way to a marine improvement projecting from an end parcel, an adjacent parcel, or a parcel on a lake or basin (excluding outside corner parcels) shall extend beyond the boundaries of the marine improvement area of the parcel as determined pursuant to paragraph vi. below, unless prior written consent of the affected property owner is obtained. Such consent shall be revocable by the affected property owner and shall automatically terminate in the event the ownership of the affected property changes. In the event ownership changes, the written consent of the new owner must be obtained if the marine vessel is to continue to extend beyond the ends of the water frontage of the parcel.
9. Marine improvements that do not project more than six feet into a waterway as measured from the water frontage line may extend the full length of the water frontage of the parcel. However, where the end of a parcel water frontage line abuts the water frontage line of another parcel, the angle at which such two water frontage line ends meet shall be bisected and apportioned equally

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between the two waterfront parcels. In that event, no marine improvement shall extend beyond the bisector of the angle.

10. No marine improvement that projects more than six feet from the water frontage line of the property shall be permitted to be outside of the marine improvement area for a waterfront parcel. The boundaries and dimensions of the marine improvement area shall be determined as follows:

a. End parcels.

- i. The access width of the waterway shall be calculated by subtracting from the calculated waterway width twice the maximum distance that a marine improvement along one side of the waterway could lawfully project as determined pursuant to § 5.5.4.A.1.
- ii. The waterway access ratio shall be calculated by dividing the waterway access width by the calculated width of the waterway.
- iii. The waterway center point (WCP) shall be located. The WCP is a point on the centerline of the canal 30 feet from the water's end. All marine improvement area lines and intersections are calculated and plotted from the WCP. See Diagram 5.5.4.B.
- iv. Locate on the water frontage line the offset points for the parcel as follows: If the parcel has 80 feet or more of water frontage line, then the offset points shall be located 12 feet from each end of the water frontage line of the parcel. If the parcel has more than 40 feet, but less than 80 feet of water frontage line, then the offset points shall be located in from the ends of the water frontage line the distance (in feet) resulting from the following formula: (Feet of Water Frontage Line - 40) x 0.3. If the parcel has 40 feet or less of water frontage line, then the ends of the parcel's water frontage line shall be the offset points. See Diagram 5.5.4.C.
- v. From the WCP, plot a line having the same relationship to the WCP as the water frontage line has to the center of the canal end, but with all distances reduced in size by the waterway access ratio. This line is the offset line for the parcel. See Diagram 5.5.4.D.
- vi. The marine improvement area is that area enclosed by the water frontage line, the offset line, and lines connecting the ends of the offset line to corresponding offset points. See Diagram 5.5.4.E. and F.

b. Adjacent parcels. The marine improvement area for an adjacent parcel shall be calculated in the same manner as that for an end parcel except as follows:

- i. Adjacent parcel that abuts an end parcel with 40 feet or less of water frontage line. On the side of the adjacent parcel that abuts an end parcel with 40 feet or less of water frontage line, the side boundary of the marine improvement area shall constitute the side boundary of such adjacent parcel's marine improvement area.
- ii. Adjacent parcel that abuts an end parcel with more than 40 feet of water frontage line. On the side of the adjacent parcel that abuts an end parcel with more than 40 feet of water frontage line, the side boundary of the adjacent parcel's marine improvement area shall be determined by drawing a line from the end of the subject adjacent parcel's water frontage line (on the same side as the subject end parcel) to the nearest terminus point of the subject end parcel's offset line and passing through the adjacent parcel's offset line. The side boundary shall be that portion of the aforesaid line between the end of the

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adjacent parcel water frontage line and the parcel's offset line. However, in no event shall the side boundary extend beyond the bisector of the angle formed where the adjacent parcel's water frontage line abuts the end parcel's water frontage line. The bisector shall be extended into the waterway the maximum distance a marine improvement could lawfully project within the marine improvement area.

- c. Parcels on lakes and basins (excluding outside corner parcels). A waterfront parcel shall be deemed to be on a lake or a basin if the parcel abuts a body of water identified as a lake or a basin on the officially adopted Future Land Use Map of the City of Cape Coral. Except for outside corner parcels, all waterfront parcels on lakes or basins shall be categorized as corner parcels, adjacent parcels, or end parcels. A corner lake or basin parcel shall be a parcel that either touches or is on both sides of an interior corner of a lake or basin. In other words, a corner lake or basin parcel may be one with a water frontage line that is V-shaped because it physically runs along the edge of the lake or basin, turns at the corner, and continues along the edge of the lake or basin, or it may be a parcel the water frontage line of which ends at a corner of the lake or basin where another side of the lake or basin begins, or it may be a parcel that is angled in such a way that each end of its water frontage line touches a different side of the lake or basin. Also, an adjacent lake or basin parcel shall be a parcel that is on a lake or basin and that abuts at least one corner parcel. All other parcels on lakes or basins and that are neither corner parcels or adjacent parcels shall be treated as end parcels.
- d. The marine improvement area for parcels on lakes or basins shall be calculated as follows:
- i. For an end parcel, the side of the lake or basin upon which the parcel is physically located shall be deemed to be the end of the lake or basin and the sides of the lake or basin shall be deemed to be the sides of the lake or basin running roughly perpendicular to the end of the lake or basin and to the left and to the right of the parcel (when facing the lake or basin). For purposes of this Section, the waterway access ratio for all end lake and basin parcels shall be one. In addition, the WCP for end lake or basin parcels shall be 40 feet into the lake or basin as measured perpendicularly to the lake or basin end from the center of the lake or basin end. All marine improvement area lines and intersections are calculated and plotted from the WCP. The remainder of the marine improvement area boundary calculations for end lake or basin parcels shall be the same as those performed with respect to canal end parcels. See Diagram 5.5.4.K.
 - ii. For corner lake or basin parcels, the configuration of the marine improvement area shall be determined by the physical configuration of the particular corner parcel. With respect to a corner parcel the water frontage line of which lies entirely on one side or end of a lake or basin, but terminates at the corner of the lake or basin where the other side of the lake or basin begins, the marine improvement area shall be calculated in the same manner as for end lake or basin parcels except that the side boundary of such marine improvement area (on the side where the corner of the lake or basin is located) shall be formed by a line bisecting the angle of such corner and extending to the offset line of the marine improvement area. See Diagram 5.5.4.L.
 - iii. With respect to a corner parcel that is angled so that each end of its water frontage line is on a different side of the lake or basin or for a corner parcel with a V-shaped water frontage line, the marine improvement area configuration shall be determined as follows:

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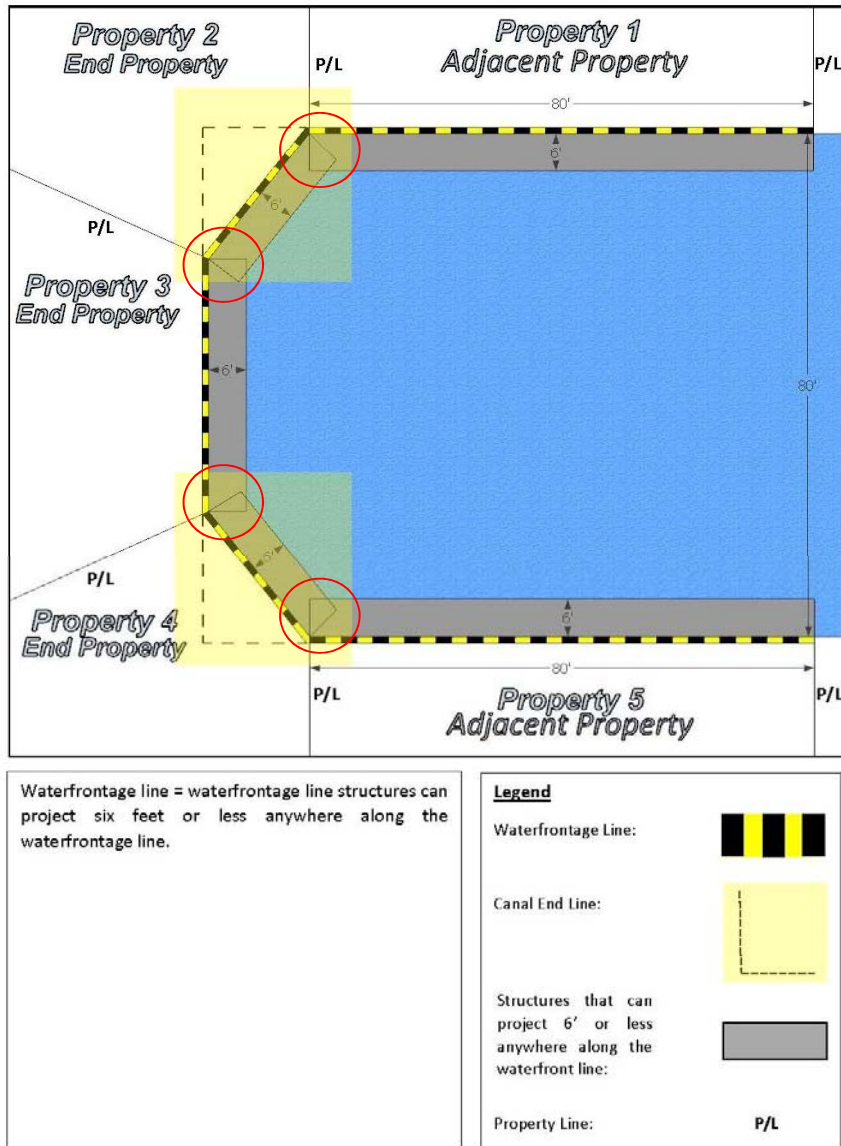
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First, calculate the waterway access ratio for each side of the lake or basin in the same manner as the waterway access ratio for a canal is determined. Then measure the distance from the center of each side of the lake or basin touched by the corner property to the end of the water frontage line, or to the offset point, if any, on such side of the lake or basin. Multiply each of the aforesaid distances by the waterway access ratio for the relative side of the lake or basin to obtain the length of the waterway line for each side of the lake or basin. Plot the waterway line from the center of the side of the lake or basin for which it was calculated to a point that is 30 feet waterward from the water frontage line. The offset line for a corner parcel marine improvement area is formed by connecting the two foregoing points. The marine improvement area for the corner parcel is that area enclosed by the parcel water frontage line, the offset line, and lines connecting the ends of the offset line to the corresponding offset points for the parcel, if any, or to the ends of the water frontage line. See [Diagram 5.5.4.M.](#)

- iv. For adjacent lake or basin parcels, the marine improvement area shall be calculated in the same manner as that for end lake or basin parcels except as follows: With respect to an adjacent lake or basin parcel that abuts a corner parcel with 40 feet or less of water frontage line, the side boundary of the corner parcel marine improvement area (on the side where it abuts the adjacent parcel) shall form the side boundary of the adjacent parcel marine improvement area. With respect to an adjacent lake or basin parcel that abuts a corner parcel with more than 40 feet of water frontage line, the side boundary of the adjacent parcel (on the same side as the subject corner parcel) shall be determined by drawing a line from the end of the adjacent parcel water frontage line to the nearest terminus point of the subject corner parcel offset line and passing through the adjacent parcel offset line. The side boundary of the adjacent parcel shall be that portion of the aforesaid line between the end of the adjacent parcel waterfrontage line and such parcel's offset line. See [Diagram 5.5.4.K.](#)
 - v. Owners of waterfront parcels on a lake or basin aggrieved by the interpretation or application of this Section to such parcel due to the physical configuration of the particular lake or basin, then the Director may interpret and apply the provisions of this Section so as to alleviate the hardship resulting from the configuration of the lake or basin and so as to enable the waterfront parcel a reasonable marine improvement area.
6. In the event a significant portion of a waterway is not developable on one side due to ecological or other constraints, a marine improvement on the opposite side of the unnavigable portion shall be permitted to project into the waterway up to 50% of the calculated waterway width or 40 feet, whichever is less, as measured from the waterfrontage line.
 7. No marine vessel (or any part thereof) when secured in any way to a marine improvement shall extend beyond the ends of the water frontage of the parcel from which the marine improvement projects.
 8. All properties adjacent to bridges shall be reviewed individually by the city to determine what, if any, marine improvement may project from that property. Factors to be considered in making this determination include, but are not limited to, public safety and the impact of a planned marine improvement on navigability.

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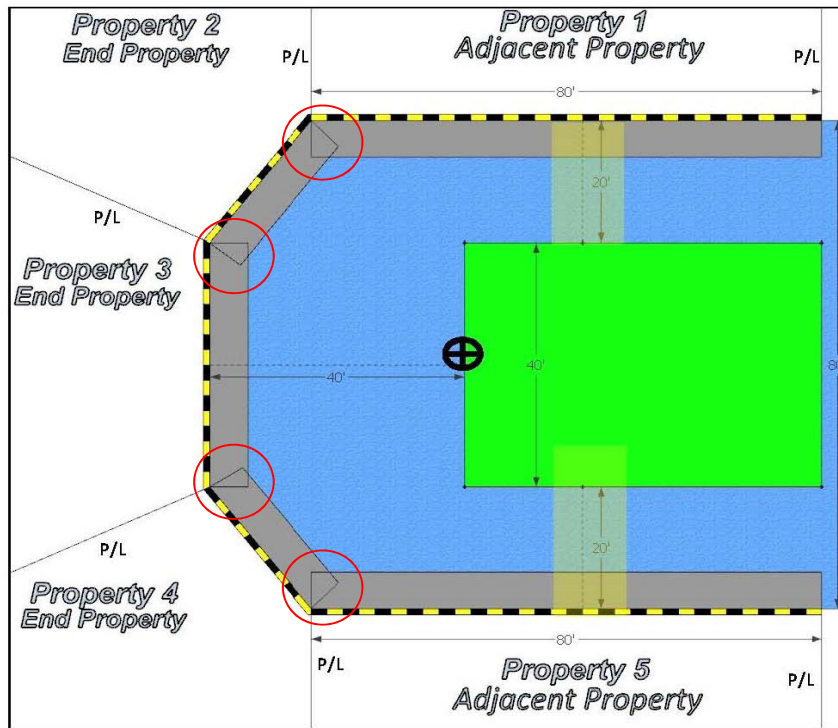
Diagram 5.5.4.A. Water Frontage Line and Canal End Line



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Diagram 5.5.4.B. Access Width/ Waterway Access Ratio/ Waterway Center Point



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

Access Width (AW): The portion of waterway in which no structure may lawfully be constructed.

AW = $W - 2(MSP) = 80 - 2(20) = 40'$

The **Waterway CenterPoint (WCP)** is a point on the centerline of the canal 40 feet from the water's end. All marine improvement area lines and intersections are calculated and plotted from the WCP.

The **Waterway Access Ratio (WAR)** = $AW/W = 40'/80' = .500$

Legend

Waterfrontage Line:



Waterway Center Point:



Access Width:



Maximum Side Protection:



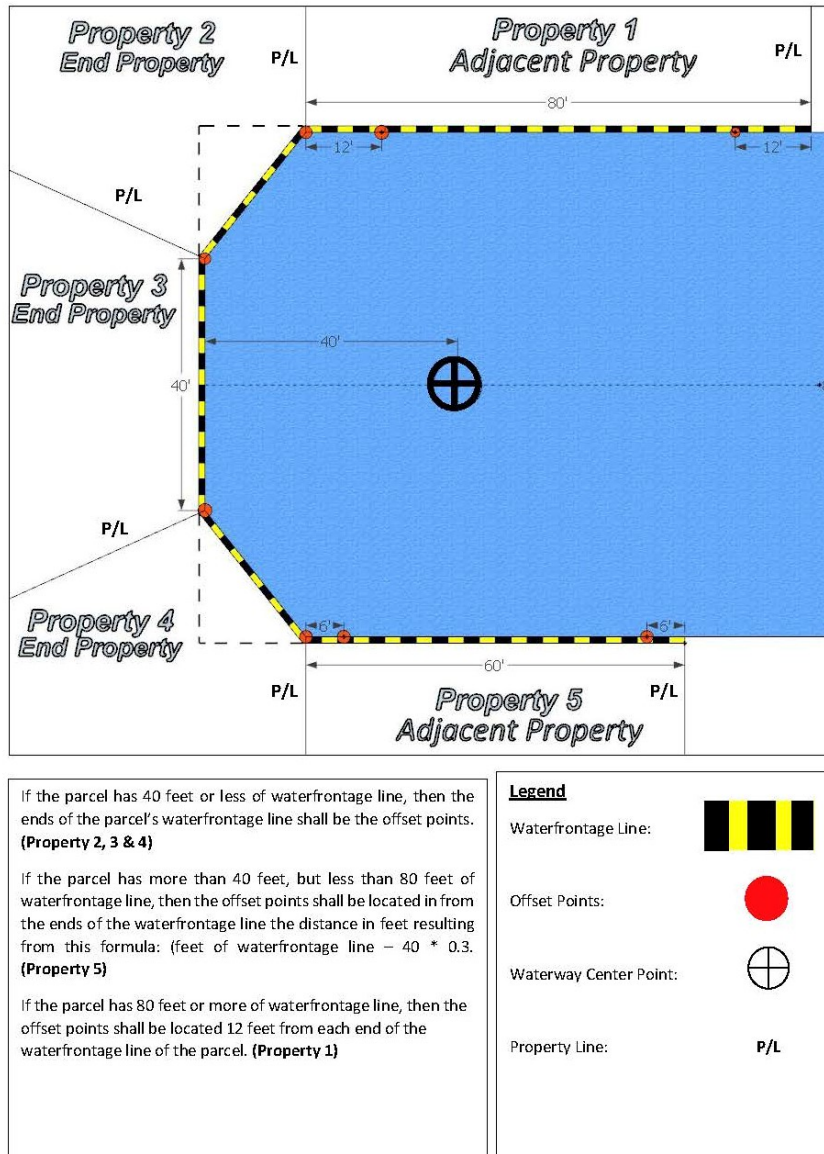
Property Line:

P/L

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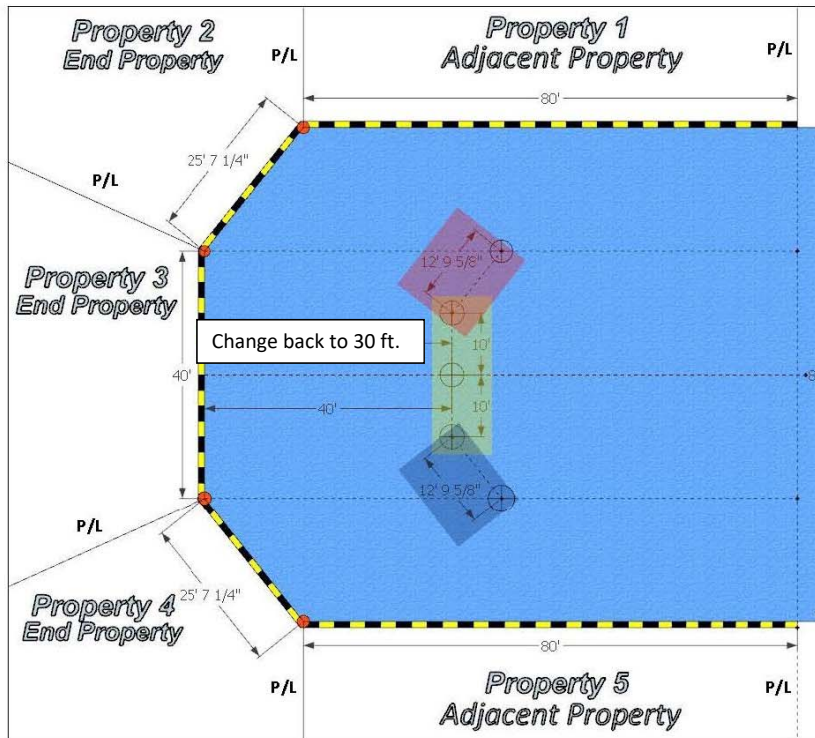
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Diagram 5.5.4.C. Offset Points



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Diagram 5.5.4.D. Offset Length



From the WCP, a line must be plotted having the same relationship to the WCP as the waterfrontage line has to the center of the canal end, but with all distances reduced in size by the waterway access ratio.

The Waterway Access Ratio (WAR) = $AW/W = 40'/80' = .500$

$D3 = WFL3/2 * .5 = 20' * .5 = 10'$

$D2 = WFL2 * .5 = 12' 9 5/8"$

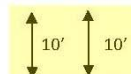
$D4 = WFL4 * .5 = 12' 9 5/8"$

Legend

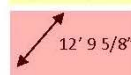
Waterfrontage Line:



D3:



D2:



D4:

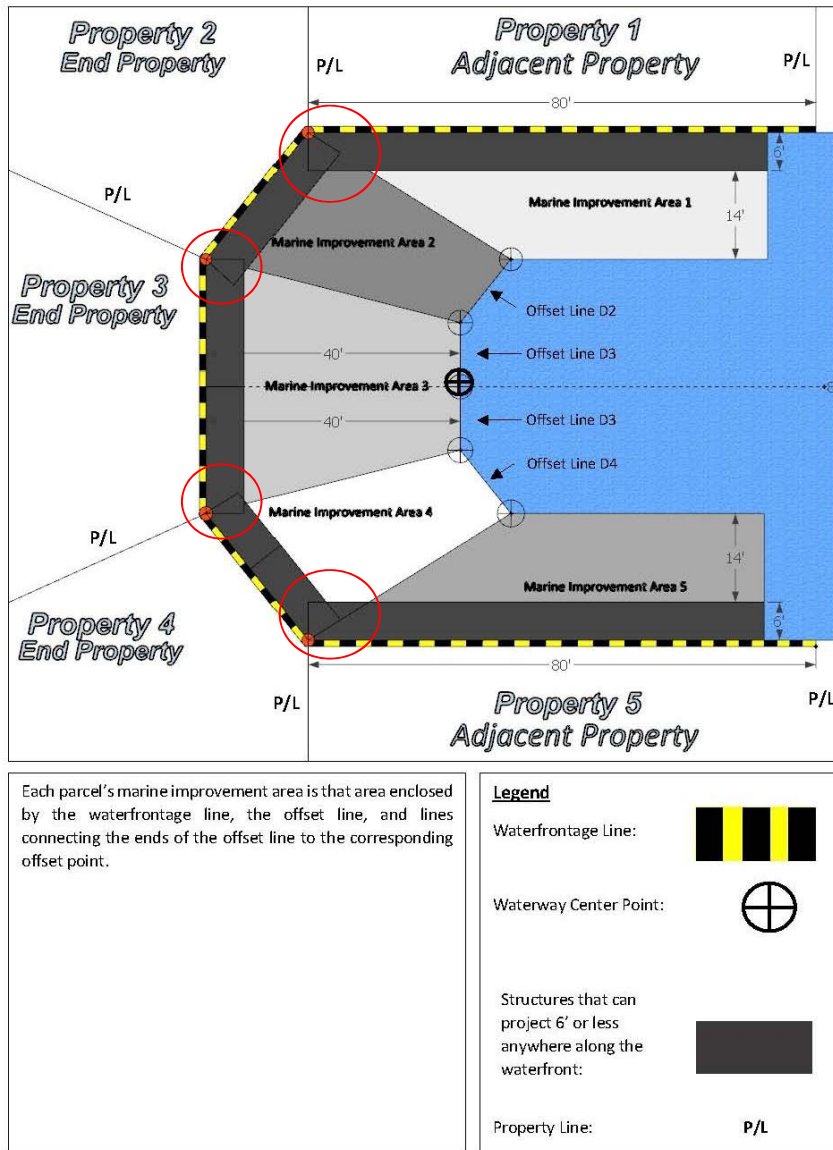


Property Line:

P/L

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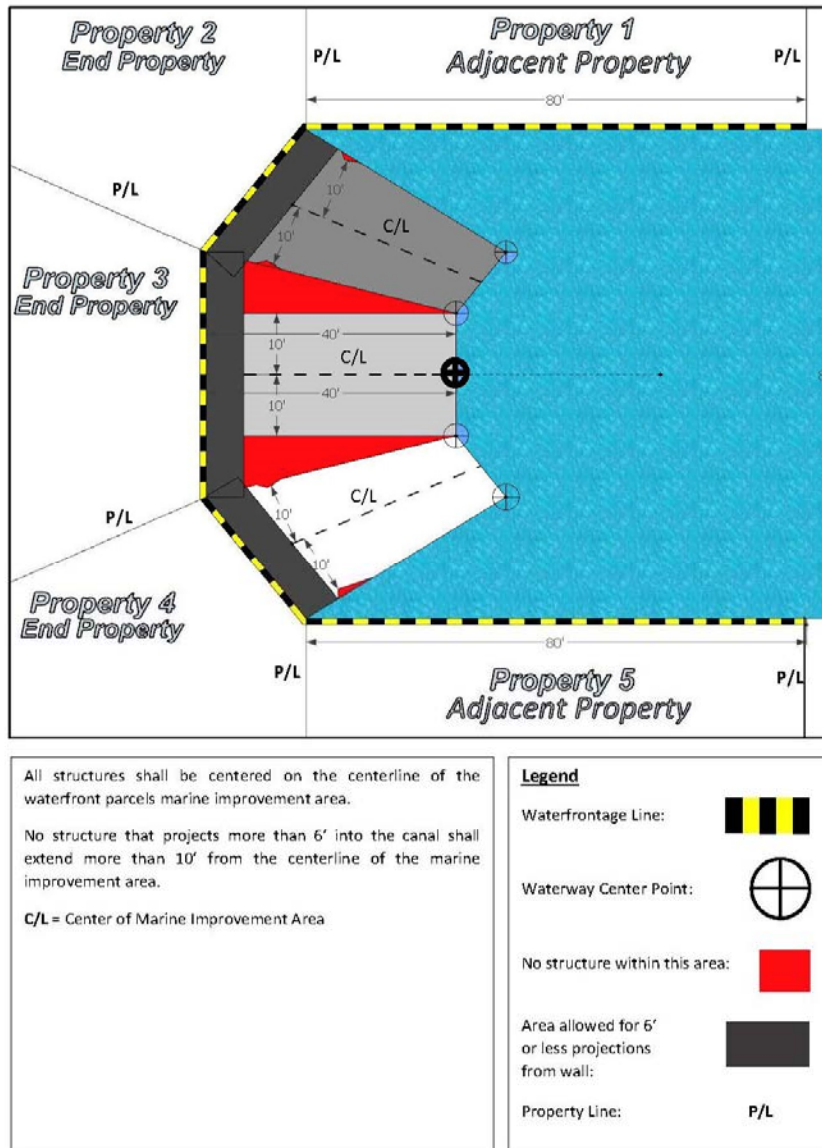
Diagram 5.5.4.E. Marine Improvement Area & Adjacent Parcel



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Diagram 5.5.4.F. Centerline of Marine Improvement Area



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Diagram 5.5.4.G. End Parcel Equal or Greater than 80' WFL

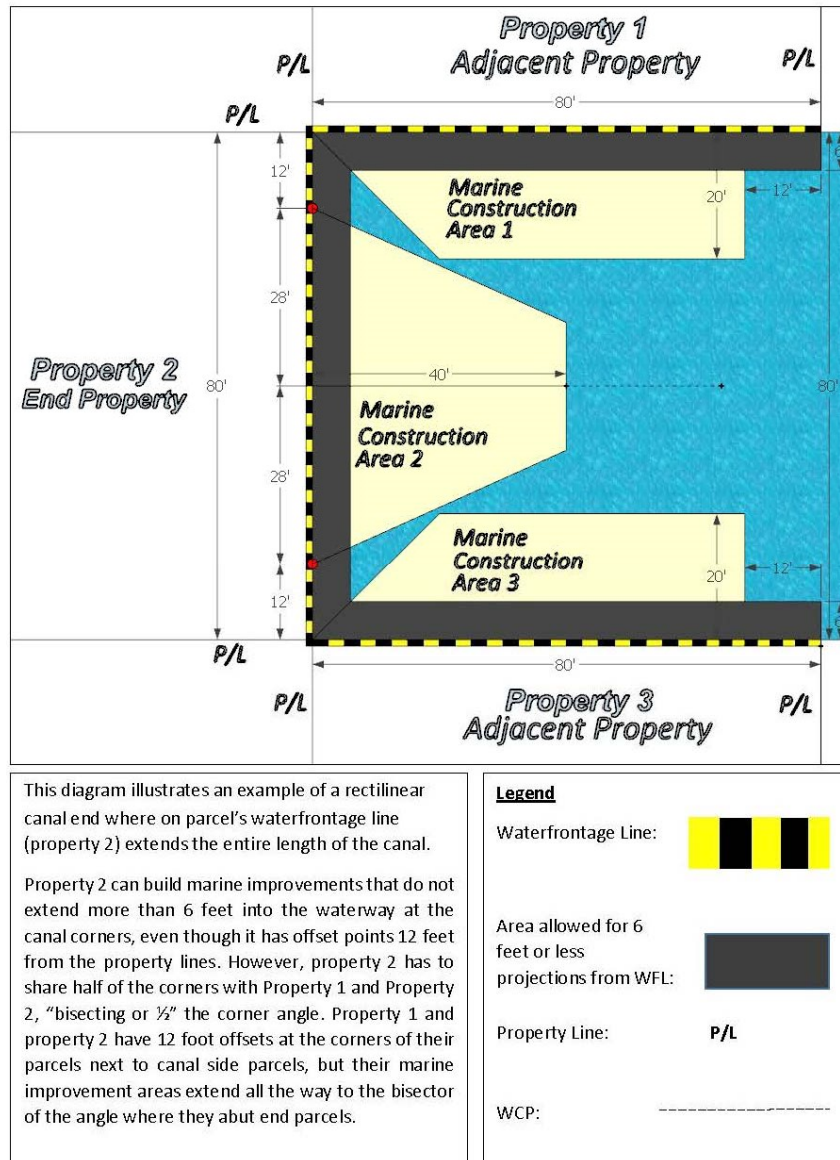
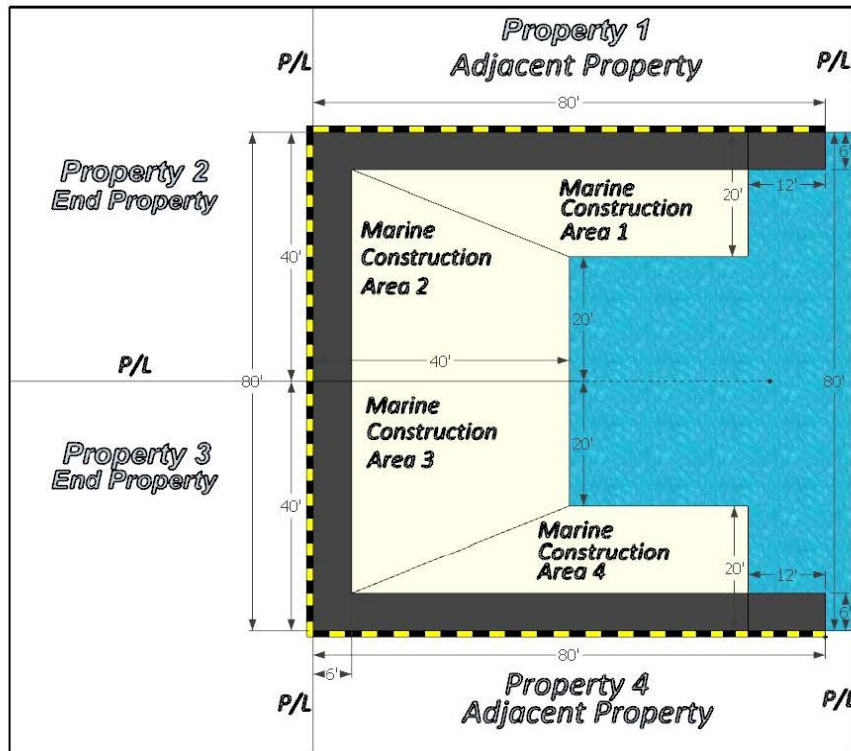


Diagram 5.5.4.H. Lots with WFL ARCS



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Diagram 5.5.4.I. End Parcel less than 80' WFL



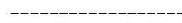
This diagram shows another situation that may occur on an 80-foot wide canal. The configuration of parcels is similar to Diagram 5.5.4.G. except that there are two parcels with 40 foot waterfrontage lines rather than one 80-foot waterfrontage line.

Legend

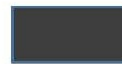
Waterfrontage Line:



WCP:



Area allowed for 6' or less projections from WFL:

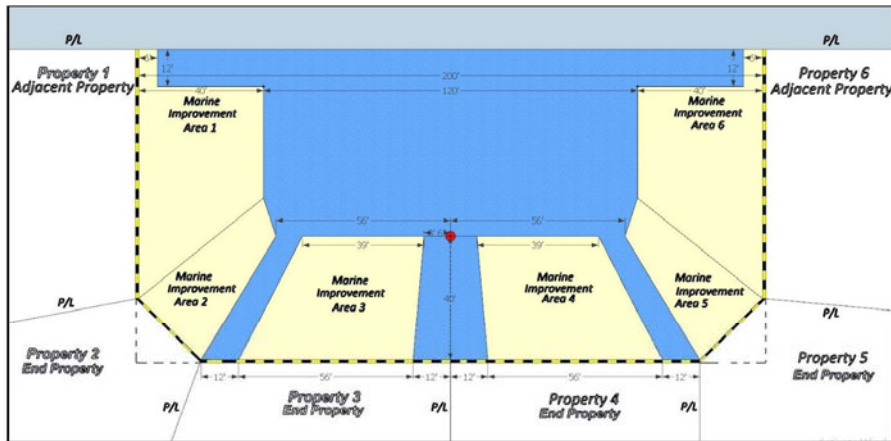


Property Line:

P/L

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Diagram 5.5.4.J. 200 Foot Canal

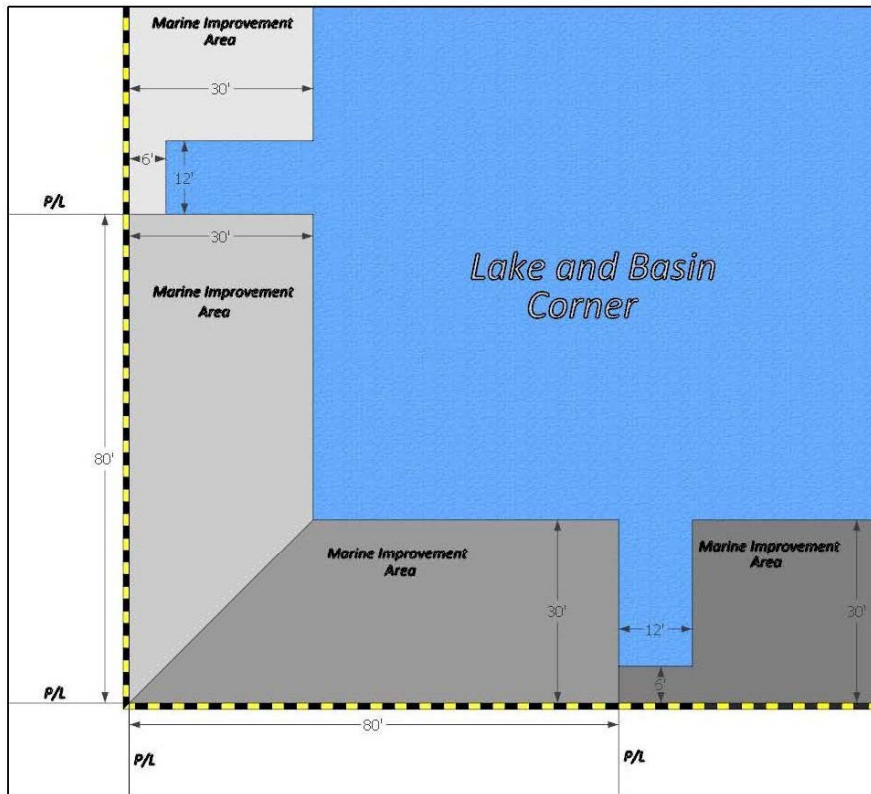


The above diagram shows the adjacent docks on the 200' canal extended 40' into the waterway. Utilizing 40' rather than 30' creates a canal with a width of 120' based on the following language the canal access ratio will be 0.5!

On all canals up to 120' in width, this number will always be 0.5. On canals wider than 120', that number will increase. The "waterway access ratio" will be used later to allocate a larger marine improvement area to properties that are at the end of the canal on wider canals.

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Diagram 5.5.4.K. Lake and Basin



With this arrangement of parcels at a lake or basin corner, the angle of the corner is simply bisected to apportion the marine improvement areas.

Legend

Waterfrontage Line:

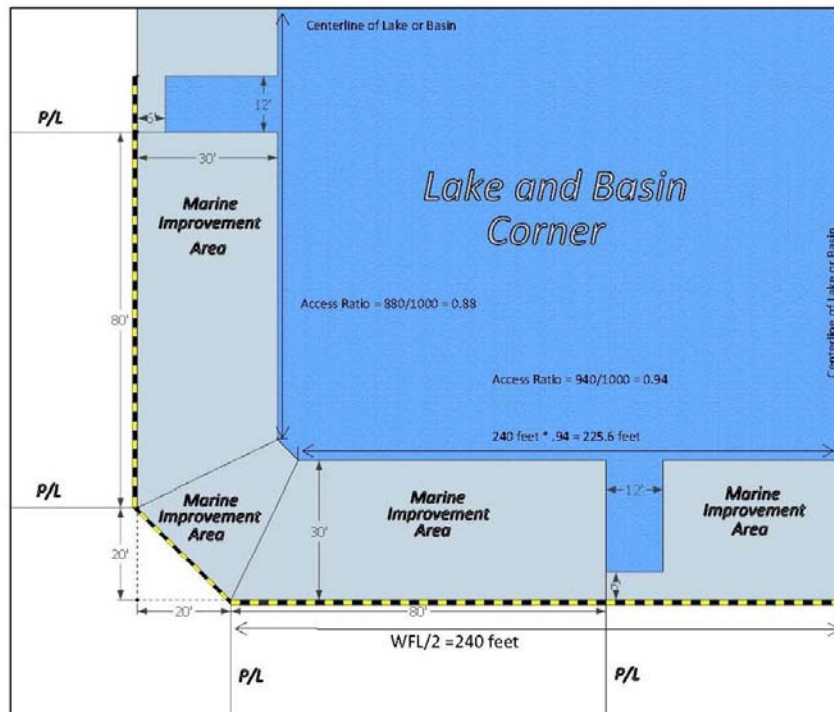


Property Line:

P/L

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Diagram 5.5.4.L Lake and basin (Angled)



This diagram illustrates a corner parcel classified as "Angled".

Marine improvement area configuration shall be determined as follows;

- 1) Calculate the waterway access ratio for each "side" of the lake or basin in the same manner as the waterway access ratio for a canal is determined.
- 2) Measure the distance from the center of each "side" of the lake or basin touched by the "corner" property to the end of the subject property's waterfrontage line, or to the offset point.
- 3) Multiply each of the aforesaid distances by the waterway access ratio for the relative "side" of the lake or basin to obtain the length of the waterway line for each "side".
- 4) Plot the "waterway line" from the center of "side" of the lake or basin for which it was calculated to a point that is 30 feet waterward from the subject parcel's waterfrontage line.

Legend

Waterfrontage Line:

Property Line: **P/L**

Diagram 5.5.4.M. Lake and Basin (V-Shaped)



B. Maximum dock surface area.

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1. For parcels with a marine improvement extending six feet or less, 85% of the marine improvement area.
2. For parcels with marine improvement extending greater than six feet:
 - a. For parcels with 40 feet or less of waterfrontage, 50% of the marine improvement area.
 - b. For parcels with a waterfrontage greater than 40 feet, 80% of the marine improvement area.

Section 5.4.5. Joint Marine Improvements.

Owners of adjoining waterfront parcels may adjust their abutting marine improvement area boundaries and offset requirements by entering into a written joint use agreement. All limitations regarding the maximum area of marine improvements shall apply to each property and the maximum marine improvement area allowed for each parcel shall not be combined or modified in any way so as to increase the maximum marine improvement area allowed for either parcel. Marine vessels or boat canopies when secured in any way to a joint marine improvement may extend beyond the end of one of the waterfront parcels involved at the point where such parcel abuts the other parcel sharing the marine improvement. However, no marine vessel (or any part thereof) shall extend beyond the outer ends of the water frontage of the two waterfront parcels except as provided in § 5.5.4.A.5.a.iii. The joint use agreement shall, at a minimum, comply with the following requirements.

- A. The agreement shall contain the name(s) and current home address(es) of both property owners.
- B. The agreement shall identify the waterway upon which the subject parcels are located and shall identify the waterfront parcels involved by legal description and by STRAP number. The agreement shall also include a signed and sealed survey of the subject adjoining parcels.
- C. The agreement shall include a drawing of the proposed marine improvement(s) to be constructed, showing the design and dimensions of the marine improvement(s), and where the marine improvements will project from the parcels.
- D. The agreement shall identify those areas that would be subject to access (ingress and egress) easements in conjunction with the joint marine improvement. Such easement(s) shall identify by legal description the property to which the easement attaches and shall be irrevocable except with the written consent of the city. The rights of each party with respect to such easement(s) shall run with the title to the respective parcels. A drawing identifying the easements shall also be included with the agreement.
- E. The agreement shall identify the responsibilities of each of the parties for the construction and maintenance of the facilities. However, identification or division of responsibilities between parties in the agreement shall not affect the ability of the city to enforce any and all provisions of its Code of Ordinances or Land Development Codes against the property owner(s) of the joint marine improvement, jointly and severally.

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- 1643 F. The agreement shall state that the parties understand and agree to abide by all applicable federal,
1644 state, and local regulations pertaining to the construction, maintenance, and use of the facilities.
1645
- 1646 G. The agreement shall run with the land and be binding upon the parties, their successors, heirs, and
1647 assignees and it shall provide that it may not be rescinded or amended without the written consent
1648 of the city.
1649
- 1650 H. The parties to the agreement shall record the agreement, at their own expense, in the public records
1651 of Lee County. The agreement shall satisfy all requirements for recording, including those contained
1652 in the Florida Statutes. No permit for the construction of a joint marine improvement or for the
1653 erection or installation of a boat canopy on a joint marine improvement shall be issued by the city
1654 until the parties have first provided to the city a copy of the fully executed agreement and evidence
1655 of recording that is satisfactory to the city, in its sole discretion.
1656
- 1657 I. Prior to execution and recording of the agreement, the parties shall submit a draft of the proposed
1658 agreement to the Community Development Director for review and comment.
1659

1660 **Section. 5.4.6. Quays and mooring piles.**
1661

- 1662 A. A seawall may be altered to accommodate the mooring of a vessel if it is determined that the seawall
1663 is structurally sufficient for that purpose.
1664
- 1665 B. Mooring piles may be installed directly adjacent to the seawall to allow for the mooring of watercrafts
1666 without a dock.
1667
- 1668 C. Pilings shall not be higher than eight feet above mean high water.
1669
- 1670 D. Any watercraft moored at a quay or a pile may not be any closer than 10 feet to the adjacent property
1671 line.
1672

1673 **Section. 5.4.7. Davits, watercraft lifts, and floating docks.**
1674

- 1675 A. Lifts: An electrical permit is required to install a lift within an existing u-shaped dock.
1676
- 1677 B. Davits:
1678
- 1679 1. The minimum side setback for davit installation shall be five feet from the side lot line to the
1680 center of the davit base.
1681
- 1682 2. Davits, including swinging lifts when extended over the water, may not extend further than 25%
1683 into the waterway or 30 feet whichever is less.
1684
- 1685 3. Overhead hoists, davits, or machinery shall not exceed eight feet above mean high water when
1686 not in use.
1687
- 1688 C. Floating docks and lifts:

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1. For dimensional requirements refer to Section 5.5.4. above.
2. A floating dock or lift must be anchored in place so as not to impede the use of neighboring waterfront property.

Section. 5.4.8. Boathouses and canopies.

- A. Boathouses are prohibited.
- B. No overhead structure shall be constructed on any dock other than an approved boat canopy or sun shelter. Sun shelters shall be erected or installed on docks only in accordance with Section 5.1.6. of this article. Boat canopies are permitted to be erected or installed on marine improvements for the purpose of protecting a vessel from the elements only in accordance with the following:
 1. The support(s) and frame(s) of a boat canopy shall be constructed of a corrosion-resistant material. Boat canopy supports shall be arranged in an open design so as to allow visibility through the sides with openings no smaller than four feet in any dimension. No boat canopy support or frame shall be of a solid or opaque design so as to create a wall. No boat canopy shall have wooden framing or supports. No shutter roll-up design shall be permitted.
 2. The canopy shall be fabric or a material which can be rolled and folded without damage. The canopy shall be attached to the boat canopy supports or frames in such a manner that it detaches in a wind load of 70 mph or greater.
 3. The boat canopy shall not extend beyond 30 inches of any dock to which the canopy is attached.
 4. No boat canopy shall exceed 40 feet in length or 18 feet in width.
 5. Boat canopies, their supports, and frames shall be maintained in good repair at all times. No canopy, canopy support, or frame shall be allowed to fall into disrepair or to become dilapidated, structurally dangerous, or unsafe. In the event a boat canopy, canopy support, or frame falls into disrepair, it shall be the responsibility of the owner of the waterfront parcel to remove the offending appurtenances.
 6. Only one canopy may be permitted per parcel.

Section. 5.4.9. Bulkheads, seawalls, and retaining walls.

- A. Mandatory seawalls. All parcels having frontage or direct and immediate access to frontage on any saline, brackish, or tidally influenced canal or other body of water within or bordering the boundaries of the city is required to have a seawall bulkheading the entire frontage exposed to contact with the water. All parcels having frontage or direct and immediate access to frontage on any freshwater or non-tidal canal or other body of water within or bordering the boundaries of the city are required to have a seawall bulkheading the entire frontage exposed to contact with the water or alternatives to vertical bulkheads as specified in the City of Cape Coral Engineering Design Standards. Seawalls or

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their alternative shall be structurally maintained at owner's expense so as not to cause a nuisance or hazard to safety. The provisions of this Section shall not apply to any parcels adjacent to or contiguous with any drainage ditch, canal, pond, or lake within any public or private golf course or public park.

- B. Bulkheads under SFWMD jurisdiction. The construction of bulkheads, in association with water management system lake construction under jurisdiction of SFWMD, shall be in compliance with SFWMD criteria.
- C. Single-family residential and duplex parcels. Parcels bounded by bulkheads shall construct an infiltration trench adjacent to and along the entire length of the bulkhead.

CHAPTER 5. LANDSCAPING

Section 5.2 - Landscaping.

- A. Purpose and intent. This section is established to provide general landscape regulations, to improve the appearance of certain setback and yard areas, including off-street vehicular parking, open lot sales and service areas, and to protect and preserve the appearance, character and value of the surrounding neighborhoods. The principles of the Florida-Friendly Landscaping Program with regard to planning and design, soil improvement, efficient irrigation, limited turf areas, mulches, drought tolerant plants and appropriate maintenance are the basis for the principles in this section and should be used as guidance in all new construction and landscape renovations so as to provide the most green with the least water and create a landscape that can survive largely undamaged in case of short term water restrictions.
- B. Florida-Friendly Landscaping Program principles. The city strongly encourages adherence to the Florida-Friendly Landscaping Program that includes the following nine principles:
1. Right plant, right place. Plants selected to suit a specific site will require minimal amounts of water, fertilizer and pesticides.
 2. Water efficiently. Irrigate only when lawn and landscape need water.
 3. Fertilize appropriately. Less is often better. Over-use of fertilizer can be hazardous to your yard and the environment.
 4. Mulch. Maintaining a layer of mulch will help retain soil moisture, prevent erosion and suppress weeds.
 5. Attract wildlife. Plants in private yards that provide food, water and shelter can conserve Florida's diverse wildlife.
 6. Manage yard pests responsibly. Unwise use of pesticides can harm people, pets, beneficial organisms and the environment.

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- 1780 7. Recycle yard waste. Grass clippings, leaves and yard trimmings recycled onsite provide nutrients
1781 to the soil and reduce waste disposal.
- 1782
- 1783 8. Reduce stormwater runoff. Water running off from private yards can carry pollutants such as soil,
1784 debris, fertilizer and pesticides that can adversely impact water quality.
- 1785
- 1786 9. Protect the waterfront. Waterfront property is very fragile and should be carefully protected to
1787 maintain freshwater and marine ecosystems.
- 1788
- 1789 C. Applicability. Except as provided under § 5.2.4, Exemption, the landscape standards of this section
1790 shall apply to all new construction of single-family homes and duplexes, and to all other new
1791 construction requiring site plan review per § 4.4. Additionally, all landscape standards of this section
1792 shall apply to amendments to a site plan that would have the effect of:
- 1793
- 1794 1. Increasing the total square footage of any one building or the total square footage of all buildings
1795 on a site by more than 20%; or
- 1796
- 1797 2. Increasing the number of buildings; or
- 1798
- 1799 3. Adding any new or expanding any existing off-street parking area.
- 1800
- 1801 No certificate of occupancy or certificate of completion shall be issued until the Department of
1802 Community Development (DCD) has determined that the applicant has complied with all the
1803 provisions of this section and has approved the finished landscape product.
- 1804
- 1805 D. Exemption. These regulations do not apply to projects located where the City Council has established
1806 specific landscape standards for a unique area of the city; unless the specific landscape standards
1807 otherwise expressly state their applicability.
- 1808
- 1809 E. Conflicts. If any of the landscape standards of this section conflict with any other provision of the City
1810 of Cape Coral Code of Ordinances or the LDC the provision that establishes the more specific standard
1811 governs. If neither conflicting provision establishes a more specific standard, then the more stringent
1812 provision governs unless otherwise expressly provided.
- 1813
- 1814 F. Landscape plans.
- 1815
- 1816 1. Landscape plan required. A landscape plan that meets the requirements below shall be provided
1817 as required by § 4.4.
- 1818
- 1819 2. Landscape plan standards. Landscape plans for all projects that require a landscape plan shall be
1820 signed and sealed by a landscape architect, or other licensed professional authorized pursuant to
1821 F.S. Chapter 481, Part II, as amended. All landscape plans shall meet the following requirements
1822 and contain the following information:
- 1823
- 1824 a. Scale of not less than one inch equals 30 feet. This requirement shall not preclude the
1825 inclusion of a smaller-scaled drawing such as a key map for the purpose of establishing the

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- 1826 orientation of landscape plans for large sites that, because of their size, cannot be displayed
1827 on a single sheet.
- 1828
- 1829 b. Zoning district, future land use classification for the subject parcel and all abutting parcels.
- 1830
- 1831 c. The approximate location, quantity, diameter/caliper, botanical and common name, and
1832 native status of all heritage trees and other existing trees with a caliper of two inches or
1833 greater, and whether they are proposed to be preserved or removed. Trees to be removed, if
1834 any, shall be indicated on a separate sheet.
- 1835
- 1836 d. Location, quantity, spacing, diameter/caliper, overall height (at time of planting) of proposed
1837 trees, palm trees, botanical and common name, and native status. Any existing trees located
1838 within the street right-of-way, between the closest outside edge of pavement and the subject
1839 property shall be shown.
- 1840
- 1841 e. Location, quantity, spacing, container size, overall height (at time of planting) of proposed
1842 shrubs and groundcover, botanical and common name, and native status.
- 1843
- 1844 f. Types, amounts, and placement of other hardscape materials such as berms and walls
1845 required by this section or § 5.6, or both.
- 1846
- 1847 g. A statement or plan describing compliance with the irrigation standards of these regulations.
- 1848
- 1849 h. Location and type of existing and proposed utility lines, easements, electrical transformer
1850 boxes, fire hydrants or fire appliances, sidewalks, parking spaces, light poles and stop signs.
- 1851 i. Indication of existing and proposed grades if existing vegetation is to be retained on site.
- 1852
- 1853 j. Existing or proposed onsite curbing.
- 1854
- 1855 k. Calculations, notes, and installation details indicating how the proposed landscaping will be
1856 in compliance with requirements of this section.
- 1857
- 1858 l. Vegetation protection barricades to be used during construction, for all trees to be preserved.
- 1859
- 1860 m. Safe sight distance triangles.
- 1861
- 1862 n. Locations of proposed and existing off-street parking area lighting, if applicable.
- 1863
- 1864 o. A note that all existing prohibited vegetation shall be removed.
- 1865
- 1866 G. Planting near utility infrastructure. Landscaping shall not interfere with or obstruct any existing or
1867 proposed pad-mounted transformer, overhead or underground utility line, utility service, fire hydrant,
1868 or fire appurtenance.
- 1869

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1. Overhead power lines. Canopy tree branches or palm tree fronds within ten feet of existing overhead transmission or distribution lines, measured radially from the line, shall be subject to trimming or removal by the power company as necessary to maintain public overhead utilities in accordance with the National Electric Safety Code (NESC). No canopy trees or palm trees shall be planted closer to an overhead transmission or distribution line than as specified by the Minimum Separation Distance Between Center of Trees and Overhead Transmission or Distribution Lines indicated in Table 1. In order to avoid conflicts with power lines and avoid the need for removal or pruning that would harm or distort their natural shape, it is recommended that no canopy trees or palm trees should be planted closer to an overhead transmission or distribution line than as specified by the Recommended Separation Distance Between Trees and Overhead Transmission or Distribution Lines indicated in Table 1. The separation between a tree and an overhead transmission or distribution line shall be the distance from the center of the tree at ground level to the closest point on the ground that is within the vertical plane of an overhead transmission or distribution line at rest. A species of canopy tree or palm tree that is not listed in Table 1 shall not be planted within 20 feet of existing overhead transmission or distribution lines without the prior written consent of the Department of Community Development Director or the Director's designee.

Table 1: Minimum Separation Distance Between Trees and Overhead Transmission or Distribution Lines			
Common Name	Botanical Name	Minimum Separation Distance (in feet) Between Center of Trees and Overhead Transmission or Distribution Lines	Recommended Separation Distance (in feet) Between Center of Trees and Overhead Transmission and Distribution Lines
PALMS			
Alexandra Palm	Archontophoenix alexandrae	10	13
Areca Palm	Chrysalidocarpus lutescens (Dypsis lutescens)	No minimum distance	No minimum distance

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Bamboo Palm	Chamedorea spp.	No minimum distance	No minimum distance
Cabbage Palm (Sabal Palm)	Sabal palmetto	8	13
Canary Island Date Palm	Phoenix canariensis	15	21
Chinese Fan Palm	Livistonia chinensis	8	13
Christmas Palm	Adonidia merrillii (Veitchii merrillii)	No minimum distance	No minimum distance
Coconut Palm	Cocos nucifera	10	21
Date Palm	Phoenix dactylifera	10	21
Dwarf Palmetto	Sabal minor	No minimum distance	No minimum distance
European Fan Palm	Chamaerops humilis	No minimum distance	No minimum distance
Fishtale Palm	Caryota mitis	8	14
Foxtail Palm	Wodyetia bifurcata	8	15
Lady Palm	Rhapis excelsa	No minimum distance	No minimum distance
Macarthur Palm	Ptychosperma macarthuri	8	14
Majesty Palm	Ravenea glauca	No minimum distance	No minimum distance
Needle Palm	Rhapidophyllum hystrix	No minimum distance	No minimum distance

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Paurotis Palm (Everglades Palm) (may grow to 25 feet)	Acoelorrhaphe wrightii	No minimum distance	13
Pindo Palm	Butia capitata	No minimum distance	No minimum distance
Pygmy Date Palm	Phoenix roebellini	No minimum distance	No minimum distance
Queen Palm	Syagrus romanzoffianum	9	18
Royal Palm	Roystonea spp.	10	21
Saw Palmetto	Serenoa repens	No minimum distance	No minimum distance
Senegal Island Date Palm (Reclinata Palm)	Phoenix redinata	8	16
Silver Palm	Coccothrinax argentata	No minimum distance	No minimum distance
Solitaire (Alexander) Palm	Pychosperma elegans	8	14
Thatch Palm	Thrinax spp.	No minimum distance	No minimum distance
Washingtonia Palm (Mexican Washington Palm)	Washingtonia robusta	8	13
CANOPY TREES			
Bald Cypress	Taxodium distichum	15	30

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Black Olive (also see Shady Lady Black Olive)	Bucida buceras	20	30
Cassia fistula	Cassia fistula	15	30
Gumbo Limbo	Bursera simaruba	15	30
Jacaranda	Jacaranda mimosfolia	20	30
Laurel Oak	Quercus laurifolia	15	30
Live Oak	Quercus virginiana	20	30
Mahogany		15	30
Pigeon Plum	Coccoloba diversifolia	8	10
Slash Pine	Pinus elliottii	15	30
Southern Magnolia	Magnolia grandiflora	15	30
Wild Tamarind	Lysiloma bahamensis	25	35
Yellow Poinciana	Peltophorum pterocarpum	15	20
Drake Elm		15	
Red Maple	Acer rubrum	15	30
Satin Leaf	Chrysophyllum oliviforme	12	15
Shady Lady Black Olive	Bucida buceras "Shady Lady"	No minimum distance	15
Tabebuia, pink or yellow	Tabebuia spp.	10	15

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2. Visibility triangles. All landscaping and buffers shall conform to the design limitations established by Article 6, § 6.1.5, Visibility Triangles.
- H. Existing trees.
1. Generally. Except for trees on the Florida Exotic Pest Plant Council's list of Category I invasive exotics, as may be amended, existing trees may be used to meet the minimum tree requirements for the site if they are indicated on the landscape plan (when a landscape plan is required), have a minimum diameter at breast height (DBH) of two inches, and are properly protected during any clearing or construction on the property.
- Developers are encouraged to preserve existing heritage trees. For any site other than a single-family or duplex site, if during development or any time throughout the life of the development, regardless of change in ownership or use(s), any heritage tree is removed or damaged, it shall be replaced with a Florida native tree that meets the quality of materials standards in § 5.2.10, with a minimum caliper of six inches measured at a height of 12 inches above the ground, with a height not less than 20 feet; however, this requirement shall not increase the total number of trees otherwise required for the site by more than 10%.
2. Protection of trees during development activities. Prior to any land preparation or other development activities, a protective barrier shall be established around all trees that are not to be removed, as follows:
- a. The protective barrier shall enclose at least that area within a radius of one foot for every inch of caliper DBH around the tree.
- b. The protective barrier may encompass more than one tree, and shall be established with a barrier as follows:
- i. Posts shall be implanted in the ground deep enough to be stable and with at least three feet visible above ground.
- ii. The protective posts shall be placed not more than six feet apart and shall be linked together at a height of at least three feet by rope, chain, silt fence fabric, or orange safety fence at least three feet in height, or any combination thereof.
- c. Required protective barriers and perimeter lines shall remain in place until all construction activity, except landscaping within the protected area, is terminated.
3. Construction activity limitations.
- a. No attachment, wires (other than supportive wires), signs or permits may be fastened to any tree that is not to be removed.
- b. Landscaping activities within the area of the protective barrier (before and after it is removed) shall be accomplished with manual labor or light machinery that, if self-propelled, is not

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- 1933 designed to bear the weight of the operator. Such light machinery may include, but is not
1934 limited to, string trimmers, walk-behind lawn mowers, or chainsaws. Except as necessary to
1935 perform landscaping activities as described above, no construction personnel shall enter the
1936 area within the protective barrier. Further, no equipment, tools, construction materials,
1937 debris of any kind, or more than six inches of soil shall be placed within the protective barrier.
1938
- 1939 c. If fill is deposited adjacent to a protective barrier, a suitable temporary or permanent
1940 retaining structure shall be constructed to prevent siltation within the area of the protective
1941 barrier.
1942
- 1943 d. If it can be reasonably accomplished, water, sewer, and other utility lines should be routed
1944 around the protective barrier of trees that are not to be removed. If a line cannot reasonably
1945 be routed around the protective barrier, the line shall be tunneled beneath the area and shall
1946 be offset to one side of the trunk to prevent damage to the main tap roots.
1947
- 1948 4. Exempt trees. This subsection shall not apply to trees grown at commercial nurseries, as part of
1949 their stock.
1950
- 1951 I. Prohibited vegetation.
1952
- 1953 1. The following invasive exotic plants are prohibited and shall be removed from the development
1954 site, in its entirety. For projects developed in phases, all invasive exotic plants shall be removed
1955 from areas to be developed under future phases at the time the first or any subsequent phase is
1956 developed. Methods to remove and control invasive exotic plants must be included on required
1957 landscape plans, for projects that require a landscape plan. Methods of removal and control that
1958 would damage native vegetation to be preserved are prohibited. The development sites shall be
1959 maintained free from invasive exotic plants in perpetuity. For purposes of this subsection, invasive
1960 exotic plants include the following:
1961

Prohibited Invasive Exotics	
Common Name	Scientific Name
earleaf acacia	acacia auriculiformis
woman's tongue	Albizia lebbeck
Bishopwood	Bischofia javanica
Austrailian pines	All Casuarina species
Carrotwood	Cupianopsis anacardioide

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Rosewood	Dalbergia sissoo
air potato	Dioscorea alata
murray red gum	Eucalyptus camaldulensis
Cuban laurel fig	Ficus microcarpa
Japanese Climbing fern	Lygodium japonicum
Old World climbing fern	Lygodium microphyllum
Melaleuca, paper tree	Melaleuca quinquenervia
downy rose myrtle	Rhodomyrtus tomentosa
Chinese tallow	Sapium sebiferum
Brazilian pepper, Florida holly	Schirus terebinthifolius
tropical soda apple	Solanum viarum
Java plum	Syzygium viarum
rose apple	Syzygium jambos
cork tree	Thespesia populnea
Wedelia	Wedelia trilobata

- 1962
1963
1964
1965
1966
1967
1968
1969
1970
2. The Weeping Fig, *Ficus benjamina*, is prohibited due to aggressive root systems unless it is maintained as a hedge with a maximum height of eight feet.
 3. City of Cape Coral and state-prohibited vegetation shall be removed from all sites prior to issuance of certificate of occupancy or certificate of completion.
 - J. Quality, size, spacing, and species mix. All plant materials required by this section shall conform to the following at the time of planting:

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- 1971 1. Plant installation standards. Plant materials shall be installed in soil conditions that are
1972 conducive to the proper growth of the plant material. Soil in planting areas shall be loose,
1973 permeable, friable, and free of limestone and other construction materials, off-street parking
1974 area base material, rocks, noxious weeds, grasses, hard pan, clay or other debris. For purposes
1975 of this section, noxious weeds are those plants listed in Section 5B-57.007, F.A.C, State Noxious
1976 Weed List, by the Florida Department of Agriculture and Consumer Services. It is recommended
1977 that such materials be removed to a depth of two and one-half feet for the well-being of plant
1978 materials. Required canopy trees, accent trees, palm trees, and shrubs shall be planted on
1979 grades not exceeding 3:1.
- 1980
- 1981 2. Plant species and grade. A minimum of 50% of all required canopy trees and accent trees and a
1982 minimum of 30% of all required shrubs and groundcovers, excluding turf grass areas, shall be
1983 Florida native as defined by this section. Any plant material on the Florida Exotic Pest Plant
1984 Council's list of Category I invasive exotics, as may be amended, shall not be counted toward the
1985 required plantings in this section. The City of Cape Coral prohibits the use of any plant material
1986 on the Florida Exotic Pest Plant Council's list of Category II invasive exotics, which are not
1987 expressly prohibited by § 5.2.9. Plant materials used in conformance with the provisions of this
1988 section shall meet or exceed the Standards for Florida No. 1, as set forth in the latest edition of
1989 "Grades and Standards for Nursery Plants" published by the State Department of Agriculture
1990 and Consumer Services, including, but not limited to, minimum crown spread diameter, root-
1991 ball sizes, and container volumes.
- 1992
- 1993 3. Tree standards.
- 1994
- 1995 a. Canopy tree size. Except in the South Cape Downtown District, all canopy trees required to
1996 meet minimum requirements shall have a minimum height of ten feet, and shall have a
1997 minimum caliper of two inches measured at a height of 12 inches above the ground. In the
1998 South Cape Downtown District, all canopy trees required to meet minimum requirements
1999 shall have a minimum height of 12 feet and a minimum caliper of three inches measured
2000 at a height of 12 inches above the ground.
- 2001
- 2002 b. Palm tree size. Palm trees required to meet minimum requirements shall have a minimum
2003 size of 16 feet overall, unless located within ten feet of a walkway, in which case they shall
2004 have a minimum of ten feet of clear trunk at planting.
- 2005
- 2006 c. Accent tree size. Accent trees required to meet minimum requirements shall have a
2007 minimum height of eight feet, have a minimum caliper of one and one-half inches
2008 measured at a height of six inches above the ground.
- 2009
- 2010 d. Tree species mix. A mix of species shall be provided according to the overall number of
2011 trees required to be planted. Species shall be planted in proportion to the required mix.
2012 The minimum number of species to be planted is indicated in Table 2.

Table 2: Required Species Mix

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Required of Trees	Number	Minimum of Species	Number
1 - 4		1	
5 - 10		2	
11 - 20		3	
21 - 30		4	
31+		5	

4. Shrub standards. Except as otherwise provided herein, shrubs planted in residential development shall be a minimum of 18 inches in height and be in at least a three-gallon container size at time of planting. Shrubs planted in all non-residential and mixed-use development must be a minimum of 24 inches in height and be in at least a seven-gallon container size at time of planting. Shrubs required for buffer yard plantings must be a minimum of 32 inches in height and be in at least a seven-gallon container size at time of planting. Ornamental grasses may be used in lieu of 30% of shrubs required. Saw palmettos (*Serenoa repens*) and coonties (*Zamia floridana*) may be used as shrubs, provided they are 12 inches in height at time of planting.

5. Groundcovers and sod.

- a. Groundcovers shall be planted no more than 24 inches apart for one-gallon pots or 12 inches apart for four-inch pots.
- b. Wherever used, sod shall be installed with no gaps or overlaps, so as to present a finished appearance and prohibit erosion of the planted area.

6. Firewise landscaping. Landscaping within areas subject to wildfire hazard and should incorporate firewise landscaping techniques promulgated by the Florida Department of Community Affairs and the Department of Agriculture and Consumer Services.

K. Planting in public drainage or utility easements. No canopy trees, accent trees, palm trees, or shrubs required by this section shall be planted within a public drainage or utility easement without approval of the city. The city may deny approval to place landscaping materials in an easement if such would conflict with existing or proposed utilities or drainage functions. If the city approves the placement of any plant material installed to meet the requirements of this section within a public drainage or utility easement and the landscape material is removed or damaged by construction or maintenance of drainage facilities or utilities, the property owner shall replace all such plant material within 30 days of the completion of the drainage or utility work, in accordance with the following criteria:

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1. Canopy trees.

- a. If planted back in the public drainage or utility easement, the property owner shall replace the canopy tree with a tree having a minimum caliper as the removed or damaged tree; however, if the removed or damaged tree is greater than four inches in caliper (measured at a height of 12 inches above the ground), the replacement tree shall be required to be a minimum of four inches in caliper.
- b. If planted in an alternate location that is not within a public drainage and/or utility easement, the property owner shall replace the canopy tree with one meeting the minimum size required by § 5.2.10 and that is subject to all other requirements of this section. For sites required to have a site plan, such alternate plant location shall be indicated on a revised landscape plan and is subject to approval by the city.

2. Palm trees.

- a. If planted back in the public drainage or utility easement, the property owner shall replace the palm tree with a palm tree having a minimum caliper as the removed or damaged palm tree; however, if the removed or damaged palm tree is greater than nine inches in caliper (measured at a height of 12 inches above the ground), the replacement palm tree shall be required to be a minimum of nine inches in caliper.
- b. If planted in an alternate location that is not within a public drainage or utility easement, the property owner shall replace the palm tree with one meeting the minimum size required by § 5.2.10 and that is subject to all other requirements of this section. For sites required to have a site plan, such alternate plant location shall be indicated on a revised landscape plan and is subject to approval by the city.

3. Shrubs. Regardless of whether the shrub is located in a public drainage or utility easement, the property owner shall replace the shrub with a shrub meeting the minimum size required by § 5.2.10.

The property owner shall notify the city when the replacement planting required by this subsection have been installed and are ready for re-inspection.

L. Single-family homes and duplexes. The following landscape requirements shall be met for all single-family and duplex units.

1. Trees required for single-family homes. All newly constructed single-family homes shall have a minimum number of trees per building site in accordance with Table 3: Trees Required for Single-Family Homes. Where a home site includes a septic tank between the structure and the street, trees shall be planted a minimum of six feet from the septic tank or its drain field.

Table 3: Trees Required for Single-Family Homes

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	Canopy Trees	Accent Trees	Palm Trees
Option A:	3	—	—
Option B:	2	—	3
Option C:	2	2	—
Option D:	1	2	3

2. Trees required for Duplexes. All newly constructed duplexes shall have a minimum number of trees per side in accordance with Table 4: Trees Required for Duplexes. Where a site includes a septic tank between the structure and the street, trees shall be planted a minimum of six feet from the septic tank or its drain field.

Table 4: Trees Required for Duplexes per side

	Canopy Trees	Accent Trees	Palm Trees
Option A:	3	—	—
Option B:	2	—	3
Option C:	2	2	—
Option D:	1	2	3

3. Credit for larger, canopy trees. The required number of canopy trees may be reduced by one tree if an existing or proposed canopy tree is at least two inches of increased caliper above the minimum planting size specified in § 5.2.10. Single-family homes and duplexes are not eligible for the Tree Credit Program provided by § 5.2.14.
4. Shrubs required. Each single-family home and duplex shall be landscaped with a minimum of 20 three-gallon shrubs of which a minimum of ten shall be planted at any location in the front yard.
5. Mulch, groundcover, and planting beds.
- a. The soil surface of the land area not covered by structures or hardscape features shall be covered with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs, groundcover, or any combination thereof. When shrubs are used in planting beds,

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shall be planted not more than 48 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used to cover more than 20% of the total land area not covered by structures or hardscape features and is not within a front yard or right-of-way.

- b. A two-inch minimum layer of organic mulch, measured after watering-in, shall be placed and maintained around all newly installed canopy trees, accent trees, palm trees, and shrubs. A two-inch minimum layer of organic mulch, measured after watering-in, shall be placed around all newly installed groundcover plants so that bare areas of sod are not exposed; however, the mulch around groundcover plants is not required to be maintained after the groundcover becomes established. Except as otherwise provided in these regulations, each canopy tree, accent tree, and palm tree shall have organic mulch no less than 36 inches beyond its trunk in all directions; however, the mulch shall be kept away from the trunks and stems of plants so as to avoid conditions that may be conducive to collar rot, basal canker or other fungi. The use of cypress or cedar mulch is strongly discouraged.
- c. The use of any inorganic mulch, including pebbles or shells to cover the soil surface is not recommended. Inorganic mulch should only be used to frame the outside of beds or to control erosion and should not be used to cover the root ball of newly planted trees or shrubs. Inorganic mulch shall not exceed 10% of the total land area not covered by hardscape features.
- d. The right-of-way from the edge of the street pavement to the property line shall be planted with sod or other approved groundcovers, except as otherwise provided in the City of Cape Coral Code of Ordinances or Land Use and Development Regulations.

6. Irrigation systems. Irrigation systems are encouraged but not required; however, where they are installed, they shall meet the standards of **§ 5.2.13.D.**

- M. Landscaping for all development other than single-family homes and duplexes. The provisions of this section shall not apply to single-family homes and duplexes unless otherwise specifically stated herein. The soil surface of the land area not covered by structures or hardscape features shall be covered with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs, groundcover, or any combination thereof. Shrubs in planting beds shall be planted not more than 48 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used to cover more than 20% of the total land area not covered by structures or hardscape features and is not within a front yard or right-of-way. The right-of-way from the edge of the street pavement to the property line shall be planted in accordance with the requirements of subsection B. below.

1. Tree planting requirements.

- a. Except in the South Cape District, all sites, exclusive of buffer areas, shall have at least one canopy tree for each 1,000 square feet of gross land area, except that accent trees or palm trees may be substituted for a required canopy tree as indicated below. Trees required for buffers shall not be used for meeting the minimum number of trees required for a site. In the South Cape District, all sites shall have at least one canopy tree for each 3,500 square feet of gross land area, except that accent trees or palm trees may be substituted for a

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

- b. In the South Cape District, each canopy tree shall be planted a minimum planting area of 24 square feet with a minimum dimension of four feet in width unless an alternative minimum planting area or dimensions are approved by the Director, based on planting details that ensure reasonable soil surface and planting medium volumes. Except in the South Cape District not more than 50% of the required canopy trees may be substituted with accent trees or palm trees in accordance with § 5.2.13.A.1.a. In the South Cape District, not more than 25% of the required canopy trees may be substituted with accent trees or palm trees, in accordance with § 5.2.13.A.1.a., as follows:

- i. Accent trees may be substituted for required canopy trees at a rate of two accent trees for each canopy tree required; however, no canopy tree required for a landscape buffer yard shall be substituted with an accent tree, unless the minimum width of available buffer yard options would preclude compliance with the minimum separation distance between trees and overhead power lines.
- ii. The following palms shall not be substituted for required canopy trees:

Common Name	Botanical Name
Areca Palm	Chrysalidocarpus lutescens (Dypsis lutescens)
Bamboo Palm	Chamedorea spp.
Christmas Palm	Adonidia merrillii (Veitchii merriillii)
Dwarf Palmetto	Sabal minor
European Fan Palm	Chamaerops humilis
Lady Palm	Rhapis excelsa
Majesty Palm	Ravenea glauca

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Needle Palm	Rhapidophyllum hystrix
Pygmy Date Palm	Phoenix roebellini
Saw Palmetto	Serenoa repens
Silver Palm	Coccothrinax argentata
Thatch Palm	Thrinax spp.

To meet tree planting requirements in a landscape buffer yard or in off-street parking and vehicle use areas, palm trees, other than those listed above, may be substituted for canopy trees at a rate of three palm trees per each canopy tree substituted, regardless of the palm tree species. Except in the South Cape Downtown District, to meet tree planting requirements for areas other than a landscape buffer yard or off-street parking and vehicle use areas, palm trees may be substituted for required canopy trees at a rate of one palm tree per each canopy tree substituted. In the South Cape Downtown District, to meet tree planting requirements for areas other than a landscape buffer yard, palm trees may be substituted for required canopy trees at a rate of two palm trees per each canopy tree substituted.

- c. Except for plantings in or near surface water management areas, a two-inch minimum layer of organic mulch, measured after watering-in, shall be placed and maintained around all newly installed canopy trees, accent trees, palm trees, and shrubs. Except in the South Cape District, each tree shall have organic mulch no less than 36 inches beyond its trunk in all directions. In the South Cape District, each tree shall have organic mulch no less than 18 inches beyond its trunk in all directions. All mulch shall be kept away from the trunks and stems of plants so as to avoid conditions that may be conducive to collar rot, basal canker or other fungi.

The use of cypress or cedar mulch is strongly discouraged.

- d. The use of any inorganic mulch, including, but not limited to, pebbles or shells to cover the soil surface shall only be used to frame the outside of beds and/or to control erosion. Inorganic mulch shall not exceed 10% of the total land area not covered by structures, pools, accent boulders, driveways, sidewalks, or other paving, nor shall it be used to cover the root ball of newly planted trees or shrubs. The balance of the soil surface shall be covered with planting beds with a two-inch minimum layer, measured after watering-in, of organic mulch.
- e. Canopy trees shall not be planted within seven feet of any roadway, sidewalk, or public utility unless an acceptable root barrier material is installed between the tree and the roadway, sidewalk, or public utility. Acceptable root barrier material shall consist of one of the following: a manufactured root barrier material, installed in accordance with manufacturer's

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directions, reinforced concrete with a minimum depth of 16 inches, or a continuous sheet of aluminum with a minimum depth of 16 inches and a minimum thickness of 0.024 inches. Where a root barrier is required, it shall be installed for a minimum distance of 20 linear feet.

f. In the event a property owner installs a public sidewalk closer than seven feet to any extant canopy tree, the property owner shall install an acceptable root barrier material in accordance with manufacturer's directions, such as herbicide impregnated materials or reinforced concrete of sufficient width and length, which will prevent the encroachment or undermining by the tree's root system, prior to the installation of the sidewalk.

g. In the South Cape District, in the event that the tree requirements in this section cannot be met due to site constraints, the property owner may pay an in lieu of fee to the Downtown CRA Tree Fund. Such site constraints shall include size of site, access or circulation requirement making trees impracticable, or extant site layout. The City Council shall, by resolution, establish a fee based on the average cost of the aforementioned trees. The city will use the funds in the Downtown CRA Tree Fund to provide or enhance the landscaping and vegetation in public areas of the Downtown CRA. To qualify to pay an in lieu of tree fee, a property owner must apply for approval by the Director of the Department of Community Development. If the Director approves the application, then the property owner may pay an in lieu of tree fee meeting planting requirements. This provision does not preclude applicants from applying for deviations in accordance with **§ 5.2.19.**

2. Right-of-way. The right-of-way from the edge of the street pavement to the property line shall be planted with sod or other approved groundcovers, except as otherwise provided in the City of Cape Coral Code of Ordinances or LDC.

3. Landscape design features. Six types of landscaping may be required on a site, depending on the site location and the specific elements of the development: foundation landscaping, landscaping adjacent to roads, off-street parking and vehicle use areas, retention/detention areas, and buffer. Trees planted to meet the requirements of these landscape design features can be included in the calculation of total number of trees required by this section under tree planting requirements.

a. Foundation landscaping. To provide aesthetic relief between a building and off-street parking or vehicular use areas, all new development, except development in the Industrial District and South Cape District, must provide foundation landscaped areas equal to 10% of the proposed building gross ground level floor area. These foundation landscaped areas must be between the off-street parking area and the building, between public streets and the building, or between vehicular access ways and the building, or any combination thereof, with emphasis on the side(s) most visible to the public. Foundation landscaping may consist of surface level landscaped areas, raised planters, planter boxes, or any combination thereof. The width of the foundation landscaped areas shall be five feet, except for sites less than one acre with an average depth less than or equal to 135 feet, in which case the width shall be three feet. Foundation landscaped areas may be planted with trees, but must be planted with shrubs spaced a maximum of three feet on centers.

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- b. Landscaping adjacent to roads. Where a development site abuts a public right-of-way, excluding a dedicated alley, the following shall apply except within Mixed-Use Districts:
- i. Except as otherwise provided herein, a strip of land, a minimum of ten feet in width, shall be provided between the abutting right-of-way and any structure or off-street parking area. For sites or portions of sites that are 135 feet or less in depth, the width may be reduced to five feet.
- ii. At a minimum, perimeter landscaping in this area shall consist of the following:
- (1) One shrub for every three linear feet of landscaped area, planted separately or grouped, except where a carport or an off-street parking or vehicular use area abuts the strip of land that is required adjacent to roads. Where a carport or an off-street parking or vehicular use area abuts the strip of land required adjacent to roads, a continuous hedge, consisting of shrubs spaced no greater than three feet on center is required.
- (2) The requirement for canopy trees or accent trees depends on the presence of overhead electric distribution or transmission lines. Shade or accent trees shall be provided as follows:
- (a) Except as provided below, one canopy tree for each 30 linear feet of frontage is required. If the calculations yield a fractional number, that number shall be rounded up to the next highest whole number. Trees may be placed in any arrangement within the landscape strip provided that the spacing between tree trunks is no greater than 60 feet.
- (b) In locations where an adequate separation distance from overhead distribution or transmission lines, as specified in Table 1, § 5.2.7., is not available, two accent trees may be substituted for any shade tree required for each 30 linear feet of frontage.
- (3) Ingress and egress from the public right-of-way through all such landscaping to off-street parking or other vehicular use areas shall be permitted and may be subtracted from the linear dimension used to determine the number of trees and shrubs required.
- (4) Landscaping required under this section shall not supersede visibility requirements at the intersection of roads, and ingress/egress lanes as required in Article III, § 3.7., Visibility Triangles.
- c. Off-street parking and vehicle use areas. The provisions of this section apply to all new off-street parking or other vehicular use areas not situated directly beneath a building containing habitable space.
- d. Protection of landscaped areas from vehicular encroachment. When a landscaped area abuts or is within an off-street parking or vehicular use area, wheel stops or curbing shall be used

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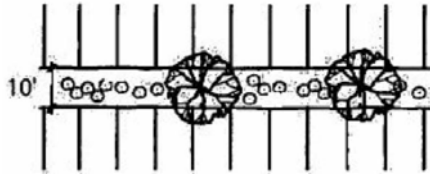
to protect landscaped areas from encroachment. The placement of shrubs and trees shall be in accordance with the Parking Lot Standards of the City of Cape Coral Engineering Design Standards.

- e. Except in the South Cape District, landscaping for sites with both of the following: 1) an average depth less than or equal to 135 feet and 2) an area less than or equal to one acre. All off-street parking areas shall be landscaped to provide visual relief and cooling effects and to define logical areas for pedestrian and vehicular circulation, as follows:
- i. Minimum landscaped area. Landscaped areas including, but not limited to, landscaped islands, foundation landscaping, and landscaping within divider medians shall equal or exceed a minimum of 5% of the total off-street parking and vehicle use areas.
 - ii. Tree planting. At least one canopy tree shall be provided for every 150 square feet of required planting area. Palm trees may be substituted for canopy trees in accordance with § 5.2.13.A.1, above.
 - iii. Divider medians. Where canopy trees are planted in divider medians, the minimum width of the divider median shall be nine feet.
 - iv. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing ten or more parking spaces shall be terminated by a landscaped area at each end that measures not less than five feet in width and not less than 15 feet in length. No trees shall be planted in landscaped islands less than nine feet in width.

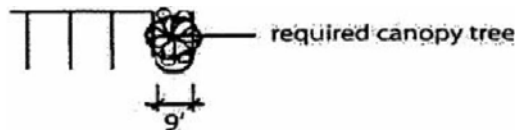


- f. Except in the South Cape District, landscaping for sites with either of the following: 1) an average depth greater than 135 feet or 2) an area greater than one acre. All off-street parking areas shall be landscaped to provide visual relief and cooling effects and to define logical areas for pedestrian and vehicular circulation, as follows:
- i. Minimum landscaped area. Landscaped areas including landscaped islands, foundation landscaping, and landscaping within divider medians shall equal or exceed a minimum of 10% of the total paved surface area. Landscaped areas reserved for future parking spaces may not be included in this calculation.
 - ii. Tree planting.
 - (1) At least one canopy tree shall be provided for every 150 square feet of required planting area. Palm trees may be substituted for canopy trees in accordance with § 5.2.13.A.1, above.
 - (2) No parking space may be more than 100 feet from a tree.
 - iii. Divider medians. If a divider median is used to meet the landscaping requirements, it shall be a minimum width of nine feet.

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- g. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing ten or more parking spaces shall be terminated by a landscaped area that measures not less than nine feet in width and not less than 15 feet in length. Each such landscaped area shall be planted with at least one canopy tree. Palm trees may be substituted for canopy trees in accordance with § 5.2.13.A.1, above.



- h. Landscape materials. All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass, groundcover, shrubs or other approved landscaping materials and this shall be noted on the landscape plans.
- i. Landscaping for sites in the South Cape District. Except within city dedicated parking areas, all off-street parking areas and applicable off-street parking area setbacks shall be landscaped to provide visual relief and cooling effects and to define logical areas for pedestrian and vehicular circulation, as follows:
- (1) Minimum landscaped area.
 - (a) Unless otherwise provided herein, all required landscape areas shall be planted with trees, shrubs, groundcover, sod, or any combination thereof. At a minimum, the landscape area(s) shall include low-lying shrubs or ground cover plants with a minimum 50% coverage of the landscape area at time of planting. When utilized, shrubs shall be planted at no more than three feet on center.
 - (b) All applicable minimum off-street parking area setbacks required by § 2.7.15.D.6.a., except rear when abutting an alley, shall be landscaped unless otherwise provided herein. This provision shall not apply to portions of setbacks areas utilized for shared curb cuts, joint driveways and shared off-street parking areas across lot lines.
 - (c) Ingress and egress from the right-of-way through any setback area is permitted and the width of the ingress and egress may be subtracted from required landscape areas.
 - (2) Landscaping for lots with a lot frontage greater than or equal to 125 feet. Off-street parking areas containing 24 or more parking spaces shall provide a landscaped area that measures not less than nine feet in width and not less than 15 feet in length for every 12

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parking spaces. Such landscaped area(s) shall be located as intermediate within or terminal islands to parking space rows. Each such landscaped area shall be planted with at least one canopy tree and groundcovers or sod.

j. Retention/detention areas.

a. Planting of trees, palm trees, shrubs, and groundcovers in retention/detention areas is encouraged, provided that:

- i. The placement of the trees, palm trees, shrubs, and groundcovers does not conflict with the volume of storage required for the retention/detention areas.
- ii. The placement of the trees, palm trees, shrubs, and groundcovers does not significantly interfere with or impede the flow of runoff in the retention/detention area.

b. All retention/detention areas shall be stabilized with sod or other groundcover capable of stabilizing the soil. Organic mulch is not allowed in or adjoining retention/detention areas.

N. Buffers.

1. Determination of required buffer. Landscape buffer and screening shall be required to separate uses of differing zoning districts from each other. The type and width of buffer required shall be determined by using Table 4: Table of Minimum Buffer Requirements. If the developing property contains a non-residential use in a Residential District, the buffer shall be as indicated along the row labeled "Non-Residential Uses in Residential Districts"; otherwise, the buffer required shall be as indicated along the row of the developing property's zoning district under the applicable column. The buffer that is required along any segment of property line, if any, is dependent on the zoning of the abutting property and property separated by only a street containing not more than two lanes for motor vehicle traffic. A bicycle "lane" shall not be considered to be a lane for motor vehicle traffic. The specifications for each type of buffer are provided in Table 5: Table of Buffer Options.

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TABLE XXX MINIMUM BUFFER WIDTH With wall/Without wall										
DEVELOPING PROPERTY	ZONING	ABUTTING PROPERTY								SC, MXB
		R-1, RE	RML	RMM	C	CC	P	I	INST	
	R-1, RE	X	X	X	X	X	X	X	X	X
	RML	5	X	X	X	X	X	X	X	X
	RMM	10 / 20	5	X	X	X	X	X	X	X
	C	10 / 20	10 / 15	10 / 15	X	X	X	X	X	X
	CC	10 / 20	10 / 15	10 / 15	X	X	X	X	X	X
	P	5	5	5	X	X	X	X	X	X
	I	40 wall	40	40	10 / 20	10 / 20	30	X	X	X
	INST	10 / 20	10 / 20	10 / 20	X	X	X	X	X	X
	SC, MXB	5	5	5	X	X	X	X	X	X

2. Buffer specifications.

- a. The standards for minimum width, plant types and quantities, and opaque features shall be in accordance with Table: Minimum Buffer Width and Table X, Buffer Plantings. All plants provided within a buffer are specific to, and must be located within the buffer area. The buffer landscaping is in addition to other landscaping required by the Chapter and this landscaping must be located within the buffer area. For buffer options that include a wall, the wall must conform to the standards of § 3.9., including, but not limited to, the setback requirements.
- b. The buffer width shall be measured along a line perpendicular or radial to the property line.
- c. The number of each type of plant required shall be determined by dividing the length of each side of the property requiring a given type of buffer yard by 100 and multiplied by the number of plants per 100 feet indicated for a selected option. If the calculations yield a fractional number, that number shall be rounded up to the next highest whole number.

If a wall is required, the wall shall extend the entire length of the property line, or until it connects to another wall.
- d. Ingress and egress from the right-of-way through any buffer shall be avoided; however, where it is determined by the city that avoidance is impractical or not preferable due to traffic flow or safety considerations, penetration through a buffer yard to ingress and egress from the

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right-of-way may be permitted and the width of the ingress and egress can be subtracted from the length of the buffer for the calculation of the number of plants required.

- e. Plants, berms, or walls required for buffer within required sight triangles, shall be in accordance with standards provided in Article 6, § 6.1.5, Visibility Triangles. Further, no fence, wall, or plant material shall be placed within a buffer that would impede the movement of or obstruct the view of either a pedestrian or driver of a vehicle that would create a potential safety hazard.

TABLE XXX - BUFFER PLANTINGS Plants per 100 Linear Feet - Canopy/Accent/Shrub										
DEVELOPING PROPERTY	ZONING	ABUTTING PROPERTY								SC, MXB
		R-1, RE	RML	RMM	C	CC	P	INST	I	
	R-1, RE	X	X	X	X	X	X		X	
	RML	4/0/33	X	X	X	X	X		X	
	RMM	5/5/66	4/0/33	X	X	X	X		X	
		5/3/33 w/wall								
	C	5/5/66	5/5/66	5/5/66	X	X	X		X	
		5/3/33 w/wall	3/2/33 w/wall	3/2/33 w/wall						
	CC	5/5/66	5/4/33	5/2/66						
		5/3/33 w/wall	3/2/66 w/wall	5/4/32	X	X	X		X	
	P	3/2/33	4/0/33	4/0/33	X	X	X		X	
	I	9/4/80 w/wall	8/6/48	8/6/48	5/5/66	5/5/66	10/8/64		X	
			5/3/66 w/wall	5/3/66 w/wall	5/3/33 w/wall	5/3/33 w/wall				
	INST	5/5/66 5/3/33	5/5/66 5/3/33	5/5/66 5/3/33	X	X	X		X	
	SC, MX	4/0/33	4/0/33	4/0/33						

3. Buffer requirements.

- a. No development within required buffer. Required buffer shall not contain any development other than drainage facilities, sidewalks, plants, walls, or berms. Driveways shall only be

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allowed in the required buffer if the buffer runs along a street. No grading, development, or land-disturbing activities shall occur within the buffer unless as part of an approved development or landscape plan.

b. Buffer maintenance.

- i. Any landscape buffer required pursuant to this section shall be maintained in order to preserve such buffer yard.
- ii. The plantings, walls, and berms that constitute screening for any buffer required pursuant to this section shall be maintained for the life of the development. Such maintenance shall include all actions necessary to keep the buffer yard free of litter and debris, and to keep plantings, walls, and berms in good repair and neat appearance.
- iii. In the event that any buffer screening or any element thereof, is damaged or fails to live so that it no longer furthers the purpose and intent of this section, it shall be replanted or replaced, whichever is applicable, with the type and size of material specified on the landscape plan.

c. Plant/tree arrangement. Required plants and trees shall be distributed in a manner to meet the intent of screening incompatible uses. In the event that plant materials are prohibited in a public drainage or utility easement which abuts or is coincident with a buffer, no new plant materials shall be centered closer than two feet from such easement.

d. Existing vegetation.

- i. Retaining existing Florida native trees and other vegetation within a buffer is strongly encouraged.
- ii. If existing plants do not fully meet the standards for the type of buffer required, additional plant materials shall be installed.

e. Buffer walls and berms.

- i. Whenever a wall is required within a buffer, it is shown in the in Table ADD TABLE NUMBER.
- ii. Where the buffer yard requires a berm, the berm shall be graded to appear smooth, rounded and natural. Slopes shall not exceed a 3:1 grade.
- iii. Whenever a wall is required within a buffer, the wall shall conform to all requirements of § 3.9, the requirements herein, and all other requirements for a wall. The wall may be placed anywhere in the buffer, provided at least 75% of the required trees and 100% of the required shrubs are on the side facing outward toward the right-of-way or abutting property (facing away from the property on which the wall is erected). Bare concrete block, even if painted, is prohibited. The following materials, either singly or in any combination, are the only materials that may be used to form the wall:

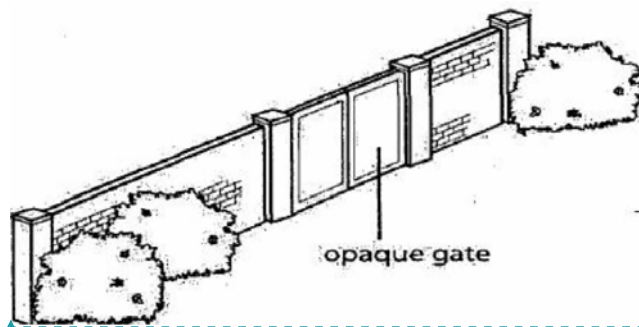
Concrete block coated with stucco;
Textured concrete block;

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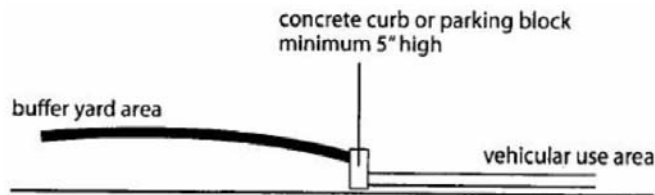
Stone;
Brick; or
Formed, decorative, or precast concrete.

Whenever a wall is required within a buffer, it shall be 100% opaque and shall be the maximum height allowed for the use and the location of the wall (see § 3.9).

- iv. Gates. A gate may be allowed in a buffer wall, provided such gate is opaque, unless spanning a vehicular entrance, and meets the intent and purpose of this section. Gates shall be maintained in accordance with the maintenance standards for screening contained in this section.



- v. Staggered walls. Whenever a wall is required within a buffer, it may be divided along the length of a buffer— so that a wall consists of a series of wall segments instead of a continuous line. Such a divided wall shall be allowed only if it meets the intent and purpose of this section and if the wall segments overlap by a minimum of one-half of the distance between the two wall segments.
- vi. Vehicular use areas. Concrete curbs or wheel stops at least five inches high shall be provided between vehicular use areas and buffer areas.



3. Location of buffer.

- a. The landscape buffer required by this section shall be located along the perimeter of a property except at approved entrances or exits to the parcel.

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b. Buffer shall extend to the zoning lot line or right-of-way line, except where easements, covenants, visibility triangles, or natural features require the buffer to be set back from the property line. The presence of an easement, covenant, or natural feature does not necessarily preclude the placement of a buffer, unless due to the nature of the easement, covenant, or natural feature, the placement of a buffer would be precluded.

c. Nothing other than open landscaped areas shall be located between the required buffer and the site perimeter unless the presence of an easement, covenant, or natural feature, which due to its nature, would preclude open landscaped areas.

d. Buffer areas may not be located on any portion of an existing or dedicated street right-of-way or roadway easement.

4. Irrigation. All landscaping shall contain an automatic irrigation system. All required irrigation systems shall be designed to minimize the application of water to impervious areas, including roads, drives and other vehicle areas. Required irrigation shall also be designed to avoid damage to existing native vegetation from over watering or from physical conflicts with plant roots. The following standards shall apply to the design, installation and maintenance of the irrigation systems:

a. The irrigation system shall be properly maintained and operated consistent with watering schedules established by the South Florida Water Management District, or the City of Cape Coral, whichever is more restrictive.

b. Existing native plants are exempt from this requirement.

c. Automatic control systems shall be equipped with an operable rain sensor or other devices, such as soil moisture sensors, to prevent unnecessary irrigation.

O. Tree credits.

1. Tree credits for all development other than single-family homes and duplexes are available, to encourage the planting of larger trees than are otherwise required, and to preserve trees existing on development sites. Based on the gross square feet of land area, each tree credit earned can count toward the number of trees required, subject to limitations indicated below. If tree credits are used, the credits shall be shown in the calculations on the landscape plan. Single-family homes and duplexes are not eligible for the tree credit program provided by this subsection. In no event, shall the number of trees required in a buffer yard be reduced.

2. Credit for planting larger canopy trees. One tree credit shall be applied to the overall tree count for each two inches of increased caliper above the minimum planting size specified in § 5.2.10. In no event, however shall the actual number of trees be less than one-half of the total number required.

3. Credit for preserving existing canopy trees. Existing canopy trees in good health and meeting the minimum standards provided in § 5.2.8 that are preserved on a site, and that are properly

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2569 protected prior to and during the course of development activities, can be used to meet the
2570 requirements of this section for the site where the existing trees are located. For purposes of this
2571 subsection, development activities include, but are not limited to, land clearing, construction,
2572 grading, or placement of fill. Canopy trees that exceed the minimum size required by § 5.2.10 are
2573 credited at the following ratios for existing canopy trees:

1.	6" up to 12" caliper = credit for 2 trees
2.	12" up to 18" caliper = credit for 3 trees
3.	18" up to 24" caliper = credit for 4 trees
4.	24" or greater caliper = credit for 5 trees

2574
2575 No credit shall be given to canopy trees on the Florida Exotic Pest Plant Council's list of Category
2576 I or Category II invasive exotics, as may be amended.

2577
2578 4. Credit for preserving existing palms. Existing palm trees in good health and having a minimum of
2579 ten feet of clear trunk that are preserved on a site, and that are properly protected prior to and
2580 during the course of development activities, can be used to meet the requirements of this section
2581 for the site where the existing palm trees are located. This credit shall be available for palms
2582 preserved in place or transplanted within a site, using accepted horticultural procedures.

2583
2584 P. Landscape maintenance.

2585
2586 1. General maintenance required. The property owner shall maintain all landscaping in accordance
2587 with the approved landscape plan, if any, and with the standards contained in this section,
2588 including, but not limited to the following:
2589
2590 a. Trees, palm trees, shrubs, and other vegetation shall be trimmed so as to not be an
2591 obstruction to pedestrian or vehicular traffic or traffic visibility;
2592
2593 b. Trees, palm trees, shrubs, and tree bed(s) shall be kept free of refuse, debris, and disease;
2594
2595 c. Nonliving materials shall be maintained in good condition at all times.; and
2596
2597 d. Shrubs planted in non-residential and mixed-use development shall grow and be maintained
2598 at all times according to the minimum size specified on the approved landscape plan, or to a
2599 minimum height of 36 inches, if not specified on the approved landscape plan. Shrubs that do
2600 not meet the minimum height specified on the approved landscape plan, or the alternate
2601 minimum height of 36 inches, shall be replaced with like kind species and be maintained at a
2602 height of 36 inches.
2603

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This requirement shall not preclude the placement of additional plant materials or other landscape features that comply with other requirements of these regulations.

2. Compliance required. For any development for which a landscape plan was submitted, the city shall not issue a certificate of occupancy or certificate of completion until the landscape architect or other licensed professional authorized pursuant to F.S. Chapter 481, Part II, who prepared, signed and sealed the plan, or their successor, certifies to the city that all elements of the landscape plan have been installed in accordance with the approved plan. Each development will be inspected by the City of Cape Coral within two years after the certificate of occupancy or certificate of completion is issued, and from time to time thereafter to ensure compliance with the applicable landscape standards and with the approved landscape plan, if any. Any dead or missing plant, or plant that appears to be dying or unable to sustain healthy future growth shall be replaced by one that conforms to the requirements of this section and approved landscape plan, if any. Failure to comply with this requirement shall constitute a violation of the City of Cape Coral's Code of Ordinances, subject to any penalty imposed by law.

- Q. Changes subsequent to landscape plan approval. The replacement of plants indicated on an approved landscape plan with plants of the same species, or the placement of hardscape features that comply with other requirements of these regulations shall not require the submission of an amended landscape plan. The substitution of plants indicated on an approved landscape plan with plants of an alternative species of the same size and plant category (canopy tree, accent tree, palm tree, shrub) shall not require the submission of an amended landscape plan, unless a specific species has been prescribed as a condition of approval by the Hearing Examiner or City Council; however, any such substitution shall meet all other landscape requirements, including but not limited to the minimum separation distance between trees and overhead power lines, the Florida native plant percentage, the tree species mix, and species specific palm tree substitution requirements. Except as described above, after a landscape plan has been approved, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the landscape plan without first obtaining written approval of an amendment to the landscape plan. The approval of an amendment to a landscape plan does not constitute an amendment to the site plan. Modifications that require approval of an amended landscape plan include, but are not limited to the following:

1. Replacement of any plant indicated on an approved landscape plan with a plant of a different species; or
2. The reduction of any quantity or size of plants, below the size that was indicated on the most recently approved landscape plan.

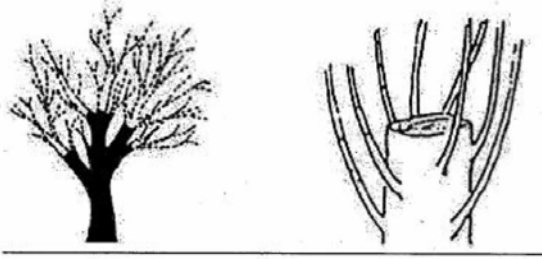
The city may impose a reasonable fee for the review and approval of an application for an amendment to a landscape plan. An application for an amendment to a landscape plan shall be reviewed in accordance with the standards herein, unless the landscaped area is a legal nonconformity. An application for an amendment to a nonconforming landscaped area shall be reviewed in accordance with **§ 5.2.15.D.2.**

- R. Nonconforming landscaped areas.

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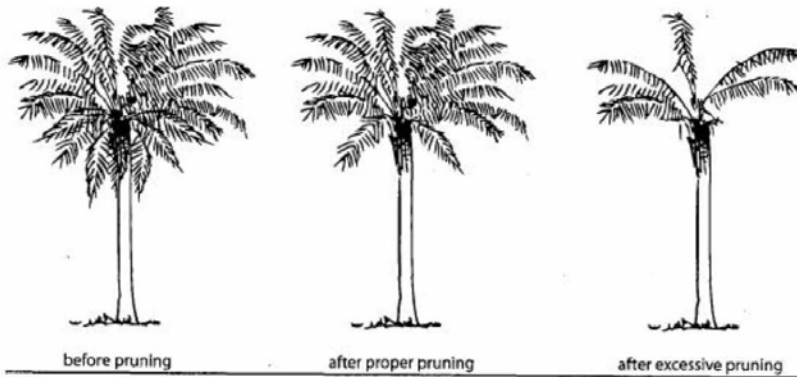
1. Legal nonconforming landscaped areas established. All landscaped areas within the City of Cape Coral which were lawful prior to the adoption of § 5.2 of the City of Cape Coral Land Use and Development Regulations, or the adoption of any subsequent amendment to the City of Cape Coral Land Use and Development Regulations but which fail by reason of adoption of such amendment to comply therewith, are hereby declared to be nonconforming. Such nonconforming landscaped areas are hereby declared to be lawful and shall not be required to be altered to conform with such regulations as adopted by the City of Cape Coral; provided, however, that such nonconforming landscaped areas are restricted and subject to the requirements of this section.
2. Requirements for nonconforming landscaped areas.
 - a. For sites with an approved landscape plan, nonconforming landscaped areas, including, but not limited to, buffer yards, shall be maintained in accordance with approved landscape plans, as modified by requirements of any approval for PDP, special exception, or variance, if any. If the minimum requirements for landscaping are reduced subsequent to the most recently approved landscape plan, the property owner can request approval of an amended landscape plan meeting the minimum requirements pursuant to § 5.2.15.
 - b. For single-family and duplex sites, nonconforming landscaped areas shall be maintained in accordance with landscape regulations in effect at the time of issuance of the original building permit for the primary structure.
 - c. For sites without an approved landscape plan, other than single-family and duplex sites, nonconforming landscaped areas shall be maintained in accordance with landscape regulations in effect at the time of the most recent site plan approval.
- S. Canopy tree pruning.
 1. Except as otherwise provided herein, trees required by regulations in effect at the time of site development shall only be pruned to promote healthy, uniform, natural growth, to keep trees trimmed back from doors, windows and public sidewalks, or where necessary to promote health, safety and welfare. Pruning shall be in accordance with "American National Standard for Tree Care Operations - Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices (Pruning) (A300, Part 1)" by the American National Standard Institute, and "Best Management Practices: Tree Pruning" by the International Society of Arboriculture (ISA). Pruning of trees on any site over one acre should be supervised by a certified arborist. Pruning necessary to maintain public overhead utilities shall be in accordance with the National Electric Safety Code (NESC).
 2. Trees required by regulations in effect at the time of site development shall not be pruned so as to include topping of trees through removal of crown material or the central leader, or any other similar procedure to permanently limit growth to a reduced height or spread or that cause irreparable harm to the natural form of the tree, except where such procedures are necessary to maintain public overhead utilities. Severely pruned trees required by regulations in effect at the time of site development must be replaced by the property owner. Replacement trees must meet the tree size requirements of § 5.2.10. A tree's growth habit shall be considered in advance of conflicts that might arise (i.e. signage, power lines, sidewalks, buildings, and similar conflicts).

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Excessively pruned trees.

3. Palm maintenance and pruning. Palms shall only be pruned in such a manner that removal of fronds does not exceed a 9:00 to 3:00 pattern and no more than one-half of the fronds are removed at a single time. This limitation shall not apply to flower stalks or fronds that are yellow or dead.



T. Planting in medians.

1. Permits.

- a. Required. It shall be unlawful for any person to place any landscape material, including plant materials and hardscape materials other than mulch, in any median under the control of the city, without first obtaining a permit for such work from the City.
- b. Application. An application for a permit shall be submitted on a form provided by the city and include all required information as specified in the permit application forms.

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- 2719 2. Median design. Landscaping in medians shall be in accordance with the City of Cape Coral
2720 Engineering Design Standards.
- 2721 3. Prohibited vegetation. The prohibited vegetation standards of § 5.2.9 shall apply in medians.
- 2722 4. Review criteria. In determining whether a permit will be issued, the city shall consider factors
2723 that include, but are not limited to, the following:
- 2724 a. Relationship to traffic and pedestrian safety;
- 2725 b. Location of existing and proposed public utilities, power lines, and other right-of-way
2726 improvements;
- 2727 c. Effect on surface waters and drainage patterns;
- 2728 d. Aesthetic effect of the proposed landscaping, including whether the resultant theme would
2729 be consistent throughout the specific median, and whether the proposed landscaping
2730 would coordinate with the landscape theme, if any, established in the vicinity;
- 2731 e. Type, size, and location of any extant plant materials and hardscape materials, if any;
- 2732 f. Type, size, and location of proposed plant materials and hardscape materials on the median;
- 2733 g. Method of removal of existing plant materials and hardscape materials;
- 2734 h. Adequacy of proposed irrigation, its expense to the city, and availability of water supply;
2735 and
- 2736 i. The city's ability to maintain the landscaping in the event that the permittee fails to do so
2737 including economic ability, manpower, and location of the median.
- 2738 5. Approval.
- 2739 a. In its approval of any permit request, the city may impose conditions, which may include one
2740 or more of the following:
- 2741 i. Modifications to the planting plan, including but not limited to the design to ensure
2742 integration with the aesthetic character of the neighborhood, the requirement that
2743 the entire median be included in the design, as well as to plant sizes, species, location,
2744 and nature placement of hardscape materials;
- 2745 ii. Modification of plant installation or removal methods or specifications;
- 2746 iii. Regulation of the commencement and completion date, work hours and/or phasing
2747 of installation or removal;
- 2748 iv. Modification to the proposed maintenance schedule;
- 2749 v. Requirement of a financial instrument to ensure maintenance and/or removal of the
2750 landscaping;
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- vi. Requirement that all or part of the landscaping be installed, maintained or both by a licensed landscape contractor or certified arborist;
- vii. Requirement that temporary traffic control measures be implemented by a barricade company with certification by the American Traffic Safety Services Association (ATSSA) or the International Municipal Signal Association (IMSA);
- viii. Requirement that curbing be installed;
- ix. Requirement that erosion control measures be implemented; or
- x. Submission of a hold harmless agreement acceptable to the city.
- b. The permittee shall be responsible for compliance with the permit and any associated conditions, along with the maintenance of the landscaping. The approval for installing landscape materials shall be valid for one year, unless another time period is expressly approved in the permit. This limitation on the time period for installing landscape materials shall not apply to replacement of materials as part of maintenance.
- c. Approval of a permit to install landscape materials in a median shall not obviate the requirement to obtain all other necessary permits, including, but not limited to, permits for irrigation and signs.
6. Changes subsequent to approval. After a planting plan has been approved, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the planting plan without first obtaining written approval of an amendment to the planting plan. Modifications that require approval of an amended landscape plan include the following:
- a. Replacement of any plant indicated on an approved planting plan with a plant of a different species; or
- b. The modification of the location of any plants or other landscape materials.
- The city may impose a reasonable fee for the review and approval of an application for an amendment to a planting plan. An application for an amendment to a planting plan shall be reviewed in accordance with the standards herein. The replacement of plants indicated on an approved landscape plan with plants of the same species shall not require the submission of an amended landscape plan.
7. Permit expiration and extension. A permit for installing landscape materials in any median under the control of the city shall be valid for a one-year period from the date of issuance, except as otherwise provided within the permit approval. The person or entity to which the permit was issued is solely responsible for submitting an application for renewal of the. In determining whether the permit should be renewed, the city shall consider all of the factors listed in subsection D. above, as well as the condition in which any materials planted pursuant to the permit have been maintained.
8. Maintenance. Once any landscape materials are installed in a median, the materials are the property of the city. Except when the city determines that it is in its best interest to maintain portions of landscaping in medians permitted in accordance with this subsection, the permittee

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shall be responsible for maintaining any and all landscaping permitted by this subsection in accordance with § 5.2.15. Should any plant material or other landscape material or portion thereof become a safety hazard, unsightly, or die or become diseased, or if it is installed or maintained in a manner inconsistent with the permitting requirements herein, the city shall have the option of performing maintenance, replacing or removing it. The City will determine compliance with this subsection.

9. Removal.

a. The authorization in this section for the removal of said landscaping in medians shall be construed as supplementary to any other means of enforcement available to the city and shall not be construed so as to negate the authority of the Code Enforcement Special Magistrate to hear and adjudicate appropriate cases.

b. The city may also, in its sole discretion, remove any landscape materials placed in any median under the city's control, for utility maintenance, safety, or any other reason.

10. Revocation. If any condition of approval is not satisfied, the city may revoke or stop work on any permit issued pursuant to this subsection.

U. Cul-de-sac or roundabouts.

1. Permit required. It shall be unlawful for any person to place any landscape materials in any cul-de-sac or roundabout under the control of the city, without first obtaining a permit for such work from the.

2. Planting design and materials. Permits shall be issued only for the planting of approved trees or shrubs on cul-de-sac or roundabout. Such plantings on cul-de-sac or roundabout shall be in accordance with the City of Cape Coral Engineering Design Standards.

a. Trees. All trees to be planted in a cul-de-sac or roundabout shall be of at least ten-gallon size at the time of planting. The following trees are: Mahogany, Wild Tamarind, Yellow or Pink Tabebuia, Buttonwood, Crepe Myrtle, Gumbo Limbo, Southern Magnolia, Paradise tree, Pigeon Plum, Sago Palm, or Pygmy Date Palm. However, other types of trees may be permitted providing the criteria established in this section are met. The prohibited vegetation standards of § 5.2.9 shall apply in cul-de-sac and roundabout.

b. Shrubs. Shrubs to be planted should be durable in harsh conditions with slow, unobtrusive growth habits. All shrubs shall be of at least three-gallon size at the time of planting. The following shrubs are recommended for planting: Carissa, Cocoplum, Yaupon Holly, Myrsine, Necklace Pod, Podocarpus, and Wax Myrtle. However, other types of shrubs may be permitted providing the criteria established in this section are met.

c. Other vegetation. The planting of flowers or any vegetation (other than approved trees or shrubs) by any private person or entity on cul-de-sac or roundabout owned by the city is

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prohibited. In addition, cul-de-sac or roundabout shall be left in sod. However, a small bed immediately surrounding a tree or shrub may be mulched.

3. Plan submittal. Prior to the issuance of a permit for planting, and prior to the planting of any tree or shrub on any cul-de-sac or roundabout, a planting plan shall be submitted for review to the City. The planting plan shall include all pertinent dimensions, source of water supply to landscape materials, and the proposed location of the trees or shrubs, with the species of tree or shrub by name.
4. Approval criteria. In determining whether a permit will be issued, the city shall consider the following criteria:
 - a. The location of existing and proposed public utilities and power lines.
 - b. Vehicular use areas and intersecting streets.
 - c. Diversion of surface waters or drainage patterns.
 - d. Relationship to and effects on traffic safety.
 - e. Type and location of trees or shrubs to be planted.
 - f. Type and location of any extant trees, palm trees, shrubs, or other vegetation on the cul-de-sac or roundabout.
5. Permit expiration and renewal. A permit for planting trees or shrubs on a cul-de-sac or roundabout shall be valid for a period of one year from the date of issuance. At the expiration of such one-year period, the permit shall automatically expire unless renewed in accordance with the provisions of this section. The person or entity to which the permit was issued shall, in a timely manner, be solely responsible for submitting an application for renewal of the permit. In determining whether the permit should be renewed, the city shall consider all of the criteria listed above as well as the existing condition of the trees or shrubs planted pursuant to the permit.
6. Maintenance. Once any landscape materials are installed, the materials are the property of the city. The person or entity to which the permit for planting is issued shall be responsible for maintaining any and all trees or shrubs in good condition so as to present a healthy, neat, and orderly appearance for keeping such trees or shrubs free of refuse, debris, and disease. Failure to maintain such trees or shrubs in accordance with this provision shall be grounds not only for denial of a renewal or revocation of the planting permit, but also shall be grounds for removal by the city of the trees or shrubs planted.
7. Removal. Any landscape materials planted or installed on a cul-de-sac or roundabout without the express written permission of the city shall be subject to removal by the city in its sole discretion. Except for the city and persons with a permit or other written authorization from the city, no person shall remove landscape materials from a cul-de-sac or roundabout.

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V. Lateral right-of-way planting.

1. No permit required. Except in the South Cape Downtown district, no permit shall be required for a private person or entity who owns the property abutting the city-owned lateral right-of-way to plant trees and shrubs in the city-owned lateral right-of-way.
2. Placement of planting material. In the South Cape Downtown District, in order to provide a cohesive urban streetscape, applicants may enter into an agreement with the city for placement of planting material in the lateral right-of-way. In all other districts, the planting of trees, palm trees, and shrubs, and the placement of the tree bed(s) shall be allowed in the city-owned lateral right-of-way subject to the following restrictions:
 - a. Planting near utility infrastructure shall be in accordance with the requirements of § 5.2.7;
 - b. One or more trees may be immediately surrounded by a bed consisting of landscape edging materials, bedding plants or groundcover, and mulch or decorative rock so long as the size of the bed is reasonably related to the size and number of trees contained therein. Groundcover or annual bedding plants shall be permitted within the tree bed. Unless otherwise permitted, no other landscape edging material, concrete curbing, bedding plant or groundcover, mulch, or decorative rock shall be allowed in the city-owned lateral right-of-way;
 - c. The person or entity who owns the property abutting the portion of the lateral right-of-way in which the plantings and the tree bed(s) are placed shall be responsible for any and all costs incurred by the city for damage sustained to any underground utility facilities as a result of said plantings or placement of the tree bed(s), and shall indemnify and hold the city, its officers, employees and agents, harmless from any and all claims for injuries and damages to persons and property, both real and personal resulting from said plantings or placement of the tree bed(s);
 - d. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch, or decorative rock shall be placed in the city-owned lateral right-of-way within five feet of the roadway. Canopy trees shall not be planted within seven feet of any roadway, sidewalk or public utility, unless an acceptable root barrier material, installed in accordance with **§ 5.2.13.A.4.**;
 - e. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch, or decorative rock shall be placed in the city-owned lateral right-of-way within five feet of either side property boundaries, as measured perpendicular from the side property line;
 - f. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch, or decorative rock shall be placed in the city-owned lateral right-of-way within three feet of the bottom on the swale in either direction; ~~and~~

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g. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch, or decorative rock shall be placed in the city-owned lateral right-of-way within three feet of a public sidewalk; and

h. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch, or decorative rocks shall be placed in such a manner so as to be an obstruction to pedestrian or vehicular traffic or traffic visibility and each shall be maintained accordingly.

3. Maintenance. Once any landscape materials are installed in a lateral right-of-way, the materials are the property of the city. The person or entity who owns the property abutting a portion of the lateral right-of-way along a city street in which the trees, palm trees, shrubs, landscape edging material, concrete curbing, bedding plants, or groundcover, mulch, or decorative rock have been placed shall be responsible for the following:

a. Maintaining all plantings and tree bed(s) in good condition so as to present a healthy, neat, and orderly appearance;

b. Trimming such trees, palm trees, shrubs, and tree bed(s) so as to not be an obstruction to pedestrian or vehicular traffic or traffic visibility; and

c. Keeping such trees, palm trees, shrubs, and tree bed(s) free of refuse, debris, and disease.

Failure to maintain such trees, palm trees, shrubs, and tree bed(s) in accordance with this provision shall constitute a violation of this section and shall be grounds for removal by the city of the trees, palm trees, shrubs, and tree bed(s) in the right-of-way.

4. Removal.

a. The authorization in this section for the removal of trees, palm trees, shrubs, and tree bed(s) shall be construed as supplementary to any other means of enforcement available to the city and shall not be construed so as to negate the authority of the Code Enforcement Special Magistrate to hear and adjudicate appropriate cases.

b. The city may also, in its sole discretion, remove any trees, palm trees, shrubs, and tree bed(s) placed in a city-owned lateral right-of-way for utility maintenance, safety, or any other reasonable cause. Except for the city, persons with written authorization from the city, and the property owner abutting the portion of the lateral right-of-way in which landscape materials have been placed, no person shall remove landscape materials from a lateral right-of-way.

c. All expenses incurred by the city for removal of such trees, palm trees, shrubs, and tree bed(s), for any reason, shall be the responsibility of the subject property owner.

d. If, for any reason, such trees, palm trees, shrubs, and tree bed(s) are removed, the person or entity who owns the property abutting the portion of the lateral right-of-way along a city street in which the plantings and tree bed(s) were placed shall be responsible for returning

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the right-of-way to its original condition prior to the placement of the plantings and tree bed(s) and any expenses related thereto regardless of whether the removal of the trees, palm trees, shrubs, and tree bed(s) was performed by the property owner or his or her agent or by the city pursuant to this section.

W. Deviations.

1. Deviations from the provisions of this section may be approved by the Hearing Examiner and as further provided herein) provided that the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of this section and where either of the following applies:
 - a. Conditions exist that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship; or
 - b. Literal conformity with the regulations would inhibit innovation or creativity in design.
2. In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Hearing Examiner shall consider include, but are not limited to, the following: site constraints such as shape, topography, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, and the effect the requested deviation would have on the community appearance. Additionally, the Hearing Examiner shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city.
3. In determining whether a particular deviation request should be approved because literal conformity with the regulations would inhibit innovation or creativity in design, the Hearing Examiner may approve the request for deviation(s) if the applicant demonstrates that the design of the landscaping for which one or more deviations is sought is unique and innovative and, further, that the approval of the deviation(s) would enhance such unique and innovative design. Additionally, the Hearing Examiner shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city. For purposes of this section, indicia of unique and innovative design may include, but are not limited to, the following:
 - a. Landscape details that are unique or that are exceptional in quality by virtue of artistic composition, quality of materials, dimensional attributes, or any combination thereof;
 - b. Plant massing that evokes exceptional expression through use of angularity, curvature, or other means;
 - c. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or

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d. Other details or forms that preclude visual monotony and are pleasing in aesthetic character.

4. Requests for deviations and the reasons therefore shall be set forth by the applicant in the application for deviation and shall be accompanied by documentation including, but not limited to, a narrative that clearly defines the section(s) of the regulations of the requested deviation, a narrative explanation as to the reason for the requested deviation and why it should be approved, sample detail drawings, elevations, and perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the benefit, or at least not to the detriment, of the public interest.

5. For deviations to avoid unnecessary or undue hardship, the Hearing Examiner -subject to these standards and criteria, shall approve only the minimum deviation from the provisions of this section. For deviations to avoid the inhibition of innovation or creativity in design, the Hearing Examiner shall approve deviations necessary to enhance the unique and innovative design. The Hearing Examiner may impose reasonable conditions of approval in conformity with this section. Violation of such conditions and safeguards, when made a part of the terms under which a deviation is granted, shall be deemed a violation of this section and shall be enforceable not only by revocation of the deviation, but also by all other remedies available to the city, including, but not limited to, all code enforcement procedures.

6. Deviations shall be heard by either the Hearing Examiner under the following circumstances:

a. If all or any part of the property for which a deviation is requested is currently regulated by a PDP, an application may be submitted for a deviation without requiring an amendment to the PDP; however, the application for deviation must be reviewed and considered for adoption by the same governing body that adopted the PDP. If the PDP was adopted by the Hearing Examiner, then the deviation must be reviewed and considered for adoption by the Hearing Examiner. If the PDP was adopted by the City Council, then the deviation must be reviewed for recommendation by the Hearing Examiner.

b. If all or any part of the property for which an application for a PDP development order is filed has previously been approved for one or more deviation(s) to the requirements of this section, then the previously approved deviation(s) may be reconsidered by the body considering the PDP development order, subject to the conditions identified herein. The deviation(s) may be revoked, amended, or remain unchanged by the body hearing the PDP application provided, however, that a deviation shall not be revoked for any building on the site that has either been completed or so substantially constructed that revocation of the deviation at the time the PDP development order is considered would be impracticable and would be unduly burdensome on the property owner. The body hearing the application for the PDP development order may amend previously approved conditions and may impose additional conditions of approval in consideration of the deviation(s) previously approved, as a condition of the PDP development order or the continuation of any previously approved deviation(s).

CHAPTER 6. LIGHTING.

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Section. 5.6.1. Purpose and applicability.

The purpose and intent of this Section is to create outdoor lighting standards that promote the health, safety, and welfare of the residents and decrease the impacts of ambient lighting on the natural sky by establishing maximum intensities of lighting and controlling glare from lighting fixtures. The provisions of this article shall apply to all permanent outdoor lighting from any light source in nonresidential development.

Section. 5.6.2. Outdoor lighting standards.

- A. Outdoor lighting fixtures. All outdoor lighting fixtures shall be installed in such a manner that the source of each individual light is shielded, positioned, and maintained so as not to be visible off the premises.
- B. Light shielding for parking lot illumination. All parking lot lighting shall have no light emitted above 90 degrees.
- C. Outdoor lighting fixtures adjacent to residential. Any outdoor lighting fixture providing light to any parcel adjacent to a residentially zoned parcel, whether adjoining or not, shall emit no more than 0.1 foot-candles of light, as measured from the property line of the adjacent residential parcel, using a standard light meter, the cell of which is directed towards the source of the light.
- D. All areas designed for use after daylight hours shall be adequately lit, in accordance with Table 5.6.2. below.

Table 5.6.2. Lighting levels for commercial and industrial developments

Outdoor Lighting Area	Lighting Level minimum - maximum (foot-candles)
Entrance of commercial or industrial building	1 - 5
Sidewalk or walkway from parking area to entrance	.5 - 2
Parking lot	.5 - 3
Gas station canopy	10 - 15
Loading and unloading areas	15 - 20

- E. Illumination ratio. Luminaire fixtures in parking lots shall be arranged in order to provide uniform illumination throughout the parking lot area of not more than a 4:1 ratio of average to minimum illumination, and not more than 12:1 ratio of maximum to minimum illumination.
- F. Automatic Switching Requirements. Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch, or equivalent functions from a programmable lighting controller, building automation system, or lighting energy management system, all with battery or similar backup power or device.

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F. Modifications. Additions, modifications, or replacement of more than 25 percent of outdoor lighting fixtures existing as of the effective date of this ordinance shall require the submission of a complete inventory and photometric plan detailing all existing and any proposed new outdoor lighting. Any new lighting shall meet the requirements of this ordinance.

G. Exempt lighting. The provisions above shall not apply to streetlights, single-family residences, duplexes, or governmental facilities.

CHAPTER 7. SCREENING ~~FOR SPECIFIC USES AND STRUCTURES.~~

This Chapter shall not apply to single-family detached or duplex residential development.

Section. 5.7.1. Screening of rooftop equipment.

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

Section. 5.7.2. Screening of storage areas.

A. All permitted storage areas shall be screened from adjacent properties and the right-of-way. Permissible screening materials include:

B. A six-foot high wall of concrete or similar approved material, Section. 5.1.11 on walls;

C. A six-foot high opaque fence of an approved material, Section. 5.1.11 fences; or

D. A vegetative buffer, consisting of two staggered rows of shrubs a minimum of three feet tall at planting. The buffer shall create a dense barrier, at 80% opacity, within two years.

Section. 5.7.3. Air conditioning units and mechanical equipment.

A. All mechanical equipment at ground level shall be screened from adjacent property and the right-of-way. When possible, sound deadening materials shall be used. Permissible screening materials include:

1. A wall or opaque fence of adequate height to screen the view of the equipment, see Section. 5.1.11 for approved materials.

2. A vegetative buffer, which meets the specifications in Section 5.8.11 for a four-foot tall buffer.

Section. 5.7.4. Permanently installed stand-by generators.

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

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- 3166
- 3167 A. The generator may only be used in emergency situations when there is a power outage.
- 3168
- 3169 B. Repairs and testing may only occur during daylight hours a maximum of once per week.
- 3170
- 3171 C. Installation of a generator shall comply with the following restrictions:
- 3172
- 3173 1. The generator shall not encroach more than three feet into any required setback, and in no case
- 3174 shall be any closer than two and one-half feet from any property line. The generator shall not be
- 3175 installed in an easement.
- 3176
- 3177 2. The generator shall be screened from public view by:
- 3178
- 3179 a. A vegetative buffer which meets the specifications in Section 5.8.11 for a five-foot high hedge,
- 3180 or
- 3181
- 3182 b. A wall or opaque fence, of an adequate height to screen the equipment, which meets the
- 3183 specifications of Section 5.1.11.
- 3184
- 3185 3. Permanent signs shall be placed at the electrical service indicating the type and location of the
- 3186 generator.
- 3187

3188 **CHAPTER 8. NON-RESIDENTIAL DESIGN STANDARDS.**

3189

3190 **Section 5.8.1. Purpose and Intent.**

3191

3192 The appearance of non-residential and mixed-use development affects the visual image and

3193 attractiveness of the City of Cape Coral. Utilitarian design and developments with minimal architectural

3194 features detract from the city's image and character. The purpose and intent of the non-residential design

3195 standards is to promote the City as an attractive destination for tourists and residents, and to support

3196 economic vitality while protecting the public health, safety, and welfare. These regulations intend to:

3197

- 3198 A. Enhance the visual image and attractiveness of the City;
- 3199
- 3200 B. Establish reasonable standards that offer flexible and diverse design options;
- 3201
- 3202 C. Ensure development in Cape Coral is of consistent high quality and character; and
- 3203
- 3204 D. Regulate site layout and architectural features to ensure aesthetic and visual interest.
- 3205

3206 **Section 5.8.2 Applicability.**

3207

- 3208 A. The standards of this section shall apply to all non-residential and mixed-use development for which
- 3209 application for site plan approval, or a building permit is made.
- 3210

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- 3211 B. These design standards shall apply to existing development if a building's gross floor area is increased
3212 by 50% or more.
3213
3214 C. Development on Industrial zoned sites shall be exempt from these standards.
3215
3216 D. The design standards of this section do not apply when the City Council has established specific design
3217 standards for a unique area of the city unless the specific design standards otherwise expressly state
3218 their applicability.
3219

Section 5.8.3 Exemptions.

- 3220
3221 The following types of buildings shall be exempt from the non-residential design standards.
3222
3223
3224 A. Any building that has received a temporary use permit under Article 3.
3225
3226 B. Any accessory structure identified in Article 5.
3227
3228 C. Bona fide agricultural buildings in the Agricultural District like barns and stables.
3229
3230 D. Guard houses.
3231
3232 E. Government facilities that are screened or not visible from a public street.
3233
3234 F. Model homes.
3235
3236 G. Municipal pump station buildings.
3237
3238 H. Neighborhood storage and mini-storage buildings provided the buildings are enclosed with a wall with
3239 a minimum height of six feet.
3240
3241 I. Pavilions, carports, gas canopies, and similar buildings that have support posts or columns but no
3242 sides.
3243
3244 J. Buildings similar to those listed above as determined by the DCD Director.
3245

Section 5.8.4 Conflicts.

- 3246
3247
3248 If any of the non-residential and mixed-use design standards of this section conflict with any other
3249 provision of the City of Cape Coral Code of Ordinances or Land Development Code, the provision that
3250 establishes the more specific standard or architectural theme governs. If neither conflicting provision
3251 establishes a specific standard or architectural theme, then the more restrictive provision governs unless
3252 otherwise expressly provided.
3253

Section 5.8.5 Appearance, Building Mass, and Design Treatments.

- 3254
3255

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- 3256 A. Consistency Within a Development. Except for buildings on outparcels that contain only one unit,
3257 designed and constructed to be occupied by a single end user, regardless of the number of business
3258 operations conducted within the single unit, buildings within a development shall be designed with
3259 color schemes, building materials, finishes, roof types, roof lines, and exterior roof finishing consistent
3260 with or that resemble those of the principal building or structure on the main parcel(s).
3261
- 3262 B. Consistency and Integrity of Building Components. All portions of any exterior side of a building,
3263 extending from finished grade to the top of the parapet wall or eaves, extending the entire width of
3264 the side of a building, must be designed with consistent architectural style, detail and trim features.
3265 All architectural features other than parapet walls, including towers or cupolas, shall be designed so
3266 as to have an equivalent character from any ground-level angle from which they can be viewed.
3267 Although perfectly symmetrical or uniform treatments are not required, architectural features that
3268 appear to enclose a spatial volume when viewed from one angle but not from all angles, or that
3269 incorporate gratuitous treatments that are not intended to be viewed from all ground-level angles,
3270 are prohibited.
3271
- 3272 C. Transparency of Building Walls. Windows and doors used to meet the transparency requirements
3273 identified below shall have a visible transmittance of at least 50% and an exterior reflectance no
3274 greater than 20%.
3275
- 3276 1. For buildings abutting and facing a public street, transparent windows, doors, or any combination
3277 thereof, shall cover at least 25% of the first story building wall area between two feet and 10 feet
3278 above grade.
3279
- 3280 2. For buildings with walls abutting but not facing a public street, transparent windows, doors, or any
3281 combination thereof, shall cover at least 15% of the first story building wall area between two
3282 feet and 10 feet above grade.
3283
- 3284 3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking
3285 areas, transparent windows, doors, or any combination thereof, shall cover at least 25% of the
3286 first story building wall area between two feet and 10 feet above grade.
3287
- 3288 D. Sides of a building. For buildings located on outparcels, all exterior sides of a building shall comply
3289 with § 5.8.5.D.1. though § 5.8.5.D.3. Additionally, except for a side of a building built flush with a side
3290 lot line, a side of a building that faces a rear lot line of an abutting property, and a side of a building
3291 that faces a property line that abuts an alley, all sides of a building shall comply with the standards of
3292 this § 5.8.5.D.1. though § 5.8.5.D.3.
3293
- 3294 1. All exterior sides of a building subject to this subsection shall include a repeating or varying
3295 pattern and shall comply with both design elements listed below. At least one of the three design
3296 elements shall repeat horizontally. All elements shall repeat or alternate at intervals of no more
3297 than 50 feet, either horizontally or vertically.
3298
- 3299 a. Each wall shall provide visual differentiation of wall surfaces through variations in a minimum
3300 of one of the following:
3301

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- 1) Building materials
- 2) Finish textures
- 3) Color

b. Each wall shall provide a minimum of two of the following architectural features:

- 1) Columns
- 2) Pilasters
- 3) Awnings
- 4) Canopies
- 5) Reveals (if provided shall have a minimum depth of ½ inch)
- 6) Corbels
- 7) Quoins
- 8) Keystones
- 9) Cornices (if provided shall have a minimum height of four inches)
- 10) Other features as determined by the DCD Director that provide articulation or reduce building massing.

2. All exterior sides of a building subject to this subsection shall provide design elements in accordance with the gross square footage of a building, as provided herein. Design elements required by this section may be located, at the discretion of the developer, on an exterior wall of a building required to comply with this section, on the roof of the building, or on both the wall(s) and the roof of a building, as applicable. If located on a roof, the design element shall be located on a portion of the roof that faces in the same direction as the exterior wall that is required to comply with this section. It is not the intent of this section, however, to require the design elements to be located on both the exterior wall(s) and the roof.

Building Area (sq. ft.)	Gross Floor	Minimum number of Design Elements Required
10,000 sq. ft. or less		3
10,001 to 49,999 sq. ft.		4
50,000 sq. ft. or greater		5

- a. Architectural features and detailing that create a frame and definition to the primary public entrance;
- b. One or more canopies or awnings that extend a total length of at least 30% of the length of any side of a building subject to this subsection;
- c. One or more attached porticos;
- d. Peaked or arched roof form;
- e. Overhanging eaves a minimum of 18 inches wide on all portions of a building with a pitched roof;

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- f. Arcade;
 - g. Colonnade;
 - h. Arches or arched forms other than roof forms or an arcade;
 - i. Windows or glazing that exceed the minimum glazing requirements of Subsection 5.8.5.C. by a minimum of 10% for a wall;
 - j. Ornamental or structural details, including but not limited to, banding or moldings used throughout the exterior building walls that add decoration and detail to a building roofline, building openings, or windows;
 - k. Two or more ornamental or structural details that are horizontally continuous (except for interruptions for doors and windows), which may include, but are not limited to belt courses, or any type of three-dimensional molding, banding, projections, recesses, or niches that help to define a base, body, and cap to the proposed building;
 - l. A tower such as a clock tower or bell tower;
 - m. A cupola;
 - n. Sculptured artwork (excluding corporate logos or advertising);
 - o. Vertical articulation of walls, including pilasters, columns, or other relief with maximum separation of one third of the wall on which they are located, not to exceed a separation of 100 feet;
 - p. Planter boxes that are integrated into the building architecture or wing walls that incorporate landscaped areas or places for sitting; or
 - q. Curved wall containing an uninterrupted curve along at least 10% of the length of any side of a building subject to this subsection.
3. For buildings with a gross floor area of greater than 50,000 square feet, no exterior wall subject to this subsection shall exceed 100 linear feet in a horizontal direction within a single, continuous wall plane, nor shall any single, continuous wall plane constitute more than 60% of the building's total length. A wall shall be deemed to be within a single, continuous wall plane unless it is offset (recessed, or projected) by at least 36 inches from any adjacent wall plane, or contains a pilaster that projects at least 36 inches from the wall.

Section 5.8.6 Wall Height Transition.

- A. Buildings that are more than twice the height of the height of extant buildings located on abutting property, shall incorporate one or more transitional height elements to segue the height of the new building to the height of the closest existing building. The transitional height element shall be

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incorporated on the new building at the approximate cornice or roof line of the nearest existing building, if any. Where there is no extant building located on an adjacent property, the requirements of this sub-section will not apply. Where no single building is "nearest" to the new building, but instead two or more buildings are located an equidistance from the new building, the property owner may select the approximate cornice or roof line of any of such equidistant buildings at which to incorporate the transitional height element on the new building.

B. Transitional height elements may include:

1. Cornices or other decorative elements that run the length and width of the building and project a minimum of six inches from the wall;
2. Upper story setbacks and offsets at the approximate cornice or roof line of the nearest existing building as provided above;
3. Variations in roof planes.

Section 5.8.7 Building Materials.

Only the following finish materials for exterior walls are permitted. All other finish materials are prohibited.

- A. Concrete block with stucco finish (CBS), synthetic stucco (an exterior cladding system with a stucco-like outer finish applied over insulating boards or composite materials), or other exterior coating that is the visual equivalent of stucco. Non-textured concrete block with visible mortar joints, even if painted, is not an acceptable finished material.
- B. Textured or ribbed concrete block, e.g. "split-face block".
- C. Reinforced concrete of any finish.
- D. Glass or other glazing, whether transparent, translucent, or applied as a veneer. For purposes of this subsection, glazing consists of glass or any material that resembles glass including, but not limited to, Plexiglass or polycarbonate.
- E. Stone or brick, including simulated stone or brick.
- F. Wood, other than plywood or T1-11 type paneling, if termite-resistant species, pressure-treated, painted, or stained.
- G. Fiber-reinforced cement panels or boards.
- H. Tile.
- I. Architectural metal panels, provided that corrugated metal panels shall not exceed 30% of the surface of any wall.

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J. Vinyl siding, provided that vinyl siding shall not exceed 30% of the surface of any wall.

Section 5.8.8 Roofs.

A. All non-residential and mixed-use buildings shall have variations in rooflines and roof features that are consistent with the building's mass and scale. In addition, roofs shall include features from at least two of the following five categories below. Flat, unadorned roofs are prohibited.

1. Parapet wall provided the parapet extends completely around the building on all sides. However, this requirement shall not prohibit the substitution of a pitched roof in lieu of a parapet for part of a building.
2. A three-dimensional cornice treatment, a minimum of four inches high (not applicable along any portion of a wall that is built flush to the side lot line). Flashing at the top of a parapet shall not qualify as a cornice. Cornices shall return a minimum of eight feet around corners that transition from a building wall that requires a cornice to a building wall that does not require a cornice.
3. Varied roof lines with different roof heights and or separate or distinct roof segments that fall at different horizontal planes above the cornice line;
4. Overhanging eaves that extend at least 18 inches beyond the supporting walls, with a minimum fascia of six inches in height (not applicable along any portion of a wall that is built flush to the side lot line);
5. Vertical variation in the roof line with a minimum change in elevation of two feet.

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

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

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

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

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

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

Section 5.8.8 Building Design Standards in the SC District.

A. All buildings, whether residential, nonresidential or compound use, shall conform to the design standards provided in § 5.6., except as superseded by the following requirements.

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

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

2. Any building facade that faces a dedicated city parking area shall provide a public entrance oriented toward such dedicated city parking area with convenient pedestrian access providing a direct connection via a walkway a minimum of four feet in width.

3. It is not the intent of these provisions to require more than two public entrances to any use intended to be occupied by a single tenant. In the event that the provisions above cumulatively require more than two public entrances, then the requirements may be reduced such that two public entrances shall be required. In determining the orientation of such public entrances. Parkway street designations and dedicated city parking areas shall have priority.

C. Transparency of building walls. Except for parking structures, building walls shall contain transparent windows, doors, or any combination thereof, meeting the following standards:

1. For lots abutting parkway or primary street designations, transparent windows, doors, or any combination thereof, shall cover at least 50% of the first story building wall area that faces the parkway or primary street designation. Above the first story, non-residential uses, except hotels, shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area; residential and hotel uses shall provide at least 15%.

2. For lots abutting secondary or tertiary street designations, non-residential uses, except hotels, shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area that faces the secondary or tertiary street designations; residential and hotel uses shall provide at least 15%.

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3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking areas, non-residential uses, except hotels, shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area that faces the dedicated city parking area; residential and hotel uses shall provide at least 15%.
 4. Non-residential use building walls facing navigable waterways shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area.
 5. For lots abutting parkway, primary, or secondary street designations, all window and door glass that faces such designations, shall have a visible transmittance of at least 50% and an exterior reflectance no greater than 20%. The bottom of such windows shall be no higher than 36 inches above grade, or six inches above the floor of the lowest habitable story, whichever is higher. However, if the building is designed with floodproofing panels or barriers, the bottom of such windows shall be located no higher than six inches above the top of the floodproofing panel or barrier.
 6. The exterior of windows and doors shall remain unshuttered at all times of the day. This provision shall not apply to the following:
 - a. Un-walled areas such as, but not limited to, dining and seating areas associated with restaurants and bars.
 - b. Hurricane shutters or flood-proofing panels during the time period in which a flood watch or warning, a tropical storm watch or warning, or a hurricane watch or warning is in effect for any portion of Lee County. Such shutters or panels shall be removed within a week from the time they are put up, unless a hurricane, tropical storm, or flood has impacted the area, in which case the shutters may remain up for not more than three months from the date of the incident, except for good cause shown to the City.
 - D. Non-residential buildings with a first story consisting of more than 35,000 square feet of floor area and consisting of a single use shall meet the following requirements:
 1. One public entrance shall be provided for every 75 feet of overall building frontage; or
 2. Liner buildings meeting the following requirements shall be provided:
 - a. Liner buildings shall be provided along at least 50% of the overall building frontage.
 - b. Liner buildings shall contain active uses with at least one public entrance provided for every 75 feet of liner building frontage. Such liner buildings shall comply with all applicable building setbacks and building frontages.
 - c. Liner buildings shall have an interior depth of at least 15 feet.
 - d. Liner buildings may be detached from, attached to, or integrated into the principal building.

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- 3572 E. Architectural elements design standards: awnings, canopies, colonnades, arcades, balconies, front
3573 porches, stoops/landings, and cupolas. A first story facade facing a street or dedicated city parking
3574 area shall provide shade with awnings, canopies, colonnades, arcades, balconies, or any combination
3575 thereof, for at least 50% of its length or width, unless prohibited by § 2.7.15.D.9.b.(2). Architectural
3576 elements, or any combination of architectural elements, may occur forward of the minimum setback,
3577 as applicable, but shall not extend forward of a lot line. Architectural elements, or any combination
3578 of architectural elements shall not encroach into an easement unless approved by the City. The city
3579 may require the property the property owner to enter into a formal easement agreement in a form
3580 acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to
3581 encroachments in the easement that result from maintenance or public infrastructure improvements.
3582
- 3583 1. The City shall consider the following criteria in determining whether to approve an architectural
3584 element, or any combination of architectural elements, that would encroach into the easement:
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- 3586 a. The extent to which the architectural element would encroach into the easement;
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- 3588 b. The effect of such encroachment on any utilities that are either currently located in the
3589 easement or that may be located in the easement in the future; and
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- 3591 c. The effect of such placement on any abutting properties or streetscape.
3592
- 3593 2. Awnings and canopies. Awnings and canopies extending from the first story, facing a street or
3594 dedicated city parking area, and serving to meet the 50% length/width requirement of §
3595 2.7.15.D.8.b. shall conform to the following:
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- 3597 a. Depth shall be a five foot minimum projection from the building facade.
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- 3599 b. Height shall be an eight foot minimum clearance, including suspended signs.
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- 3601 3. Colonnades and arcades. Colonnades and arcades facing a street or dedicated city parking area
3602 shall conform to the following:
3603
- 3604 a. Depth shall be a minimum of five feet from the building wall to the inside column face.
3605
- 3606 b. Height shall be an eight-foot minimum clearance, including suspended signs. The lowest point
3607 on arches shall not extend below seven feet.
3608
- 3609 c. Openings between piers, columns, or similar supporting elements shall be at least 50% of the
3610 colonnade or arcade facade area.
3611
- 3612 d. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be
3613 permitted above the colonnade or arcade.
- 3614 4. Balconies. Balconies shall be open and un-air-conditioned. Balconies may have roofs. Roofed
3615 balconies may be enclosed with screen and may contain privacy partitions. Balconies shall not
3616 project beyond the rear building setback requirement, as applicable. Balconies shall be located

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no closer than six feet from the abutting side lot line. Balconies facing a street or dedicated city parking area shall have a height clearance of ten feet minimum from grade; their decorative or supporting elements that project from building walls shall have a clearance of seven feet from grade.

5. Front porches. Front porches shall be un-air-conditioned, may be screened, and shall conform to the following:
 - a. Front porches facing a street or dedicated city parking area and serving to meet the minimum building frontage requirements of § 2.7.15.D.8.b. shall be a minimum of eight feet in depth.
 - b. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be permitted above front porches.
6. Stoops and landings. Stoops and landings may be roofed or unroofed, and shall maintain the required minimum building setback, as applicable. However, access to a stoop, whether by stairs, ramp, or other means, may extend forward of the minimum building setback as applicable, if approved by the City Manager, or the City Manager's designee, but shall not be located less than three feet from the front lot line.
7. Cupolas. When provided, cupola(s) shall have a maximum of 400 square feet in horizontal dimension and shall be limited to two per building.
8. Garage doors associated with residential uses, when facing the front of the lot, shall be set back at least 20 feet behind the building line.

Section 5.8.9 Equipment and Loading Areas

- A. For all non-residential and mixed-use developments, air conditioning, heating, and similar equipment shall be placed on the roof or the ground.
 1. Air conditioning and heating equipment shall be prohibited from being mounted on the side of a building.
 2. Rooftop equipment shall be screened on all sides in a manner consistent with the architectural design of the building. Such screening shall be at least as high as the highest portion of the equipment or apparatus being screened.
 3. Equipment located on the ground shall be located or screened so as not to be visible from any property line abutting a public street other than an alley when viewed along a line perpendicular or radial to such property line. Screening shall consist of a wall, fence, plant material, or any combination thereof. Fences used for screening shall not be constructed of chain link with or without slats and are encouraged to be designed to appear to be constructed of material the same as the building, and to incorporate architectural trim features consistent with the building.

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4. Electric meters and similar panels may be wall-mounted and are subject to the same screening requirements outlined in subsection c. above.
 5. Attic vents and solar panels are exempt from the requirements of this subsection.
- B. Loading areas that are visible from an abutting property with a residential future land use classification or that is separated from a property with a residential future land classification by an alley or a two-lane street shall be screened by a wall that is at least six feet in height, which is constructed of the same material as the building or is designed to appear to be constructed of material the same as the building, and that incorporates architectural trim features consistent with the building, by an earthen berm that is at least six feet in height, or by a combination of wall and berm that is at least six feet in height.

Section 5.8.10 Deviations. (unique compared to ARTICLE 3?)

- A. Deviations from the provisions of this section may be approved by the Hearing Examiner provided that the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of this section and where either of the following applies:
1. Conditions exist that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship; or
 2. Literal conformity with the regulations would inhibit innovation or creativity in design.
- B. In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Hearing Examiner shall consider include, but are not limited to, the following: site constraints such as shape, topography, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, the effect the requested deviation would have on the community appearance including, but not limited to, consideration of the mass, scale, and other characteristics of a proposed building relative to the characteristics of existing and approved surrounding buildings whether on the same or nearby sites, and the relative visibility and character of equipment or loading areas which are otherwise required to be screened along with constraints on alternative location of such equipment or loading areas. Additionally, the Hearing Examiner shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city.
- C. In determining whether a particular deviation request should be approved because literal conformity with the regulations would inhibit innovation or creativity in design, the Hearing Examiner **Director** may approve the request for deviation(s) if the applicant demonstrates that the design of the building or development for which one or more deviations is sought is unique and innovative and further, that the approval of the deviation(s) would enhance such unique and innovative design. Additionally, the Hearing Examiner shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level

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of overall aesthetic appeal and visual interest in the city. For purposes of this section, indicators of unique and innovative design may include, but are not limited to, the following:

1. Architectural details that are unique or that are exceptional in quality by virtue of artistic composition, quality of materials, dimensional attributes, or any combination thereof;
2. Building forms that evoke exceptional expression through use of angularity, curvature, or other means;
3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
4. Other details or forms that preclude visual monotony and are pleasing in aesthetic character.

D. Requests for deviations and the reasons therefor shall be set forth by the applicant in the application for deviation and shall be accompanied by documentation including sample detail drawings, schematic architectural drawings, site plans, floor plans, elevations, and perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the benefit or at least not to the detriment, of the public interest.

E. Subject to these standards and criteria, the Hearing Examiner shall approve only the minimum deviation from the provisions of this section necessary to avoid either the unnecessary or undue hardship or the inhibition of innovation or creativity in design. The Hearing Examiner may impose reasonable conditions of approval in conformity with this section. Violation of such conditions and safeguards, when made a part of the terms under which a deviation is granted, shall be deemed a violation of this section and shall be enforceable not only by revocation of the deviation, but also by all other remedies available to the city, including, but not limited to, all code enforcement procedures.

CHAPTER 9. WIRELESS TELECOMMUNICATIONS.

Section. 5.9.1. Wireless communications facility (WCF) or wireless antenna applications.

An application for a communication tower or wireless antenna shall contain adequate documentation that co-location on an existing approved tower or on an existing building or structure, has been attempted and is not feasible. Such documentation shall include:

- A. The results of a designed service study demonstrating to the satisfaction of the city that the equipment planned for a proposed communication tower cannot be accommodated on an existing or approved and un-built structure.
- B. The designed service study analysis shall be based upon a search area radius of three-quarters of a mile minimum distance from the location of the intended WCF or tower, including areas outside the City of Cape Coral. At the discretion of the city, based on the city's knowledge of existing co-location opportunities, the city may allow an applicant to provide an affidavit from a professional radio frequency engineer which establishes the search area diameter for the proposed WCF or tower location and identifies all other alternatives in the area. Further information may be required by the

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city on the ability of the WCF or tower to be accommodated on specific sites within three-quarters of a mile of the proposed WCF or tower.

C. When co-location is determined by staff to be infeasible, the determination shall be based upon the results of the designed service study and other evidence provided by the applicant documenting one or more of the following reasons:

1. Structural limitation. The proposed equipment would exceed the structural capacity of the existing or approved structure, as documented by a licensed professional engineer, and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
2. Interference. The proposed equipment would cause interference or obstruction materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified professional and the interference or obstruction cannot be prevented at a reasonable cost.
3. Insufficient height. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a licensed, if applicable, professional.
4. Lack of space. Evidence from the applicant, verified by a licensed professional, of the lack of space on existing towers or other structures within the search radius to accommodate the proposed facility.
5. Other factors. Other reasons that make it unfeasible to locate the planned equipment upon an existing or approved tower or building as documented by a qualified and licensed, if applicable, professional.
6. Technical consultants. The city shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate applications for wireless telecommunications facilities or towers and to charge reasonable fees as necessary to offset the cost of such evaluations.

Section. 5.9.2. Design standards.

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

- A. Fall zone. In the event of a catastrophic failure or collapse, towers shall be designed to collapse within an engineered fall zone lying wholly within the lot lines of the parcel containing the tower. Such fall zone shall be certified by a professional engineer, licensed in the State of Florida.
- B. Tower design for co-location. A proposed tower shall be designed to allow for future rearrangement of antennas, to provide space for antennas to be mounted at varying elevations, and to accommodate co-location.

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- 3798
- 3799 C. Monopoles or stealth. All towers shall be monopoles or stealth design.
- 3800
- 3801 D. Illumination. A tower shall not be artificially lighted except as may be required by federal or state
- 3802 regulations.
- 3803
- 3804 E. Surface or finish color. All towers shall be painted or have a non-contrasting finish that minimizes the
- 3805 visibility of the facility from public view, except where contrasting color is required by federal or state
- 3806 regulation. In addition, the exterior of support facilities shall be designed to be compatible with the
- 3807 architectural design prevailing among the structures in the surrounding developed area.
- 3808
- 3809 F. Sign. The main access gate in the tower shall have affixed to it a sign not to exceed two feet by three
- 3810 feet in size which displays the owner's or permittee's name and an emergency telephone number.
- 3811
- 3812 G. Maximum height. The maximum height of towers shall be 100 feet if the tower is designed for one
- 3813 service provider, 120 feet if the tower is designed to accommodate two service providers, or 140 feet
- 3814 if the tower is designed to accommodate three or more service providers.
- 3815
- 3816 H. Landscape screening. The accessory components to the tower shall be screened from view by shrubs
- 3817 maintained at a height of six feet, immediately adjacent to the fence surrounding the facility and
- 3818 minimum of eight trees planted outside of the shrub buffer
- 3819

3820 **CHAPTER 10. NOISE.**

3821

3822 **Section. 5.10.1. Generally.**

3823

- 3824 A. Certain activities and uses increase the likelihood of creating excessive noise. These uses should
- 3825 be located and designed in such a manner as to decrease the audible impacts on adjacent uses
- 3826 which may be negatively impacted. Outdoor venues with live performances or sports arenas are
- 3827 uses where noise may be associated with evenings and weekends whereas truck terminals and
- 3828 industrial uses with large machinery are associated with loud noise on a regular basis.
- 3829
- 3830 B. Please refer to Chapter 12, Article II of the Cape Coral Code of Ordinances for allowable noise
- 3831 levels.
- 3832
- 3833 C. Please refer to Section 5.11.2. for Carnivals and Section 5.11.12 for Special Events.
- 3834
- 3835 D. Exemptions.
- 3836
- 3837 1. Exemptions to the noise regulations above are made for the area bounded by SE 47th Street, Del
- 3838 Prado Boulevard, Lafayette Street, and Coronado Boulevard.
- 3839
- 3840 2. Within the area identified above, noise sound amplification regulations shall be suspended and
- 3841 sound levels shall be capped at 75 decibels.
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Section. 5.10.2. Permit required.

No person shall stage, promote, conduct or operate any outdoor entertainment event or outdoor venue in the City without first obtaining a permit from the Community Development Department.

Table 5.10.2.A Outdoor Venue, Outdoor Entertainment Event, and Temporary Use and Special Event Permits.

Plan Contents	Outdoor Venue Permit	Outdoor Entertainment Event	Temporary Uses and Special Events
Scaled plan showing location of existing structures	X	X	X
Scaled plan showing location of all equipment, stages, tables, tents, rides, etc.	X	X	X
Type of amplified sound equipment	X	X	
Property owner and contact information	X	X	X
Applicant and contact information	X	X	X
Sound amplifying equipment operator and contact information	X	X	
Location of sanitary, refuse, and medical facilities provided			X
Parking area and traffic plan			X
Notarized letter of permission for use of the property (if not owned by applicant) and release and indemnification agreement		X	X
Location of refuse collection			X
Detailed list of events the applicant has sponsored in Lee County in the past three years			X
Sound study for proposed equipment and site design	X		
Location and design of sound attenuation structures	X	X	
List of additionally required inspections or permits from other departments			X
Location of ingress and egress points			X
Location of any environmentally sensitive areas or species of special interest (eagles, burrowing owls, gopher turtles, ospreys, etc.)			X
Traffic route, if people are to be transported to the event			X

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3853 **Table 5.10.2.B Sound Levels by Receiving Use**

TABLE 1 SOUND LEVELS BY RECEIVING LAND USE		
RECEIVING LAND USE CATEGORY	TIME	SOUND LEVEL LIMIT DBA
Residential, public space, agricultural or institutional	7:00 a.m.—10:00 p.m.	66
	10:00 p.m.—7:00 a.m.	60
Commercial or business	7:00 a.m.—10:00 p.m.	72
	10:00 p.m.—7:00 a.m.	65
Manufacturing or industrial	At all times	75

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3857 **Section. 5.10.3. Operation of outdoor sound amplification devices.**
3858
3859 A. Outdoor sound amplification.
3860
3861 1. It is unlawful to play, use, or operate any outdoor sound amplification machine or device
3862 between the hours of 11:00 p.m. and 7:00 a.m., except as may be otherwise approved.
3863
3864 2. All sounds emanating from an outdoor amplification machine or device shall be limited in
3865 volume and tone so as not to exceed the regulations established herein.
3866
3867 3. Outside live musical performances or outside amplified sound associated with a non-residential
3868 establishment shall be required to meet either the outdoor venue regulations in Subsection B
3869 below or regulations for an outdoor entertainment event in Subsection C below.
3870
3871 B. Outdoor venue.

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1. An outdoor venue may be approved to operate outdoor sound amplification devices with extended hours up to 12:00 a.m., if all of the following requirements are met:
 - a. Meet exterior sound level standards of Section 12-22, Table 1 of the Cape Coral Code of Ordinances;
 - b. The stage, sound attenuation, and speakers are situated on the property to minimize the projection of amplified sound projecting beyond the property lines of the proposed outdoor venue;
 - c. Sound attenuation shall be of adequate height, length, and density such as perimeter walls, berming, or other adequate soundproofing barrier around the outdoor stage or perimeter of the property as may be required to minimize the sound levels from outdoor venues which exceed the allowable sound levels, listed in Table 1 of Section 12-22 Code of Ordinances, on adjacent properties.
 - d. Specifications and details of the sound system demonstrate the outdoor sound being amplified is being transmitted only through the professional sound system;
 - e. The proposed professional sound system includes the installation of a tamper resistant sound limiter and volume control with the volume set and locked at or below the maximum allowable level; and
 - f. The applicant shall submit and receive approval of a sound study for the proposed equipment and site design which demonstrates adherence to the preceding requirements.
 2. The applicant must allow an inspection of the sound data recordings from the sound system and sound limiter and access to the sound system shall be provided upon the request of a City police, code compliance officer, or sound engineer contracted by the City. Failure to provide the sound data report, or the refusal to permit the City with reasonable access to the sound volume control limiter on a sound system, provided upon request for a sound complaint, shall be prima facie evidence of a violation of this Section.
 3. A proposal to establish an outdoor venue on a developed site is required to submit a site plan amendment. All proposed outdoor venues associated with a new business shall submit a site plan application to the City which shall be subject to review and approval by the HEX.
- C. Outdoor amplified sound for an outdoor entertainment event.
1. An outdoor amplified sound plan shall be submitted for each outdoor entertainment event and shall expire upon conclusion of that outdoor entertainment event.
 2. Application for an outdoor amplified sound permit shall accompany an application for a temporary special event, in accordance with Section 5.14.9, if sound amplification equipment will be used at that special event.

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3. The outdoor amplified sound plan shall be reviewed in accordance with the following:
- a. For waterfront properties, no outdoor amplified sound plans shall be approved unless the information provided by the applicant indicates that the outdoor sound amplification equipment will be oriented and located in a way that sound will not be projected directly towards the water, unless, the information provided shows that sound barriers or other means of noise attenuation shall be placed so as to substantially reduce the amplified sound that would otherwise impact adjacent properties or adjacent street right-of-way.
 - b. For all other properties, no outdoor amplified sound plans shall be approved unless the information provided by the applicant indicates that the outdoor sound amplification equipment will be oriented toward the interior of the property, unless the information provided shows that sound barriers or other means of noise attenuation shall be placed so as to substantially reduce the amplified sound that would otherwise impact adjacent properties or adjacent street right-of-way.
4. All outdoor amplified sound equipment shall comply with each of the following conditions:
- a. The outdoor amplified sound equipment and any sound barriers or other attenuation barriers included in the plan, shall at all times be located and oriented in accordance with this Section;
 - b. The outdoor amplified sound equipment and any sound barriers or other attenuation devices approved as part of the plan shall comply with any applicable requirements of the Florida Building Code, including any local amendments.
 - c. No amplified sound equipment shall be operated in a manner which violates Cape Coral Code of Ordinances Chapter 23, Protected species; and
 - d. Outside amplified sound must remain at a level that is acceptable to the community standard. This operational level shall be reduced at 10:00 PM, and completely shut down at 11:00 PM. If an extension is granted in accordance with this Section then the operational level shall be reduced at 10:00 PM, lowered further at 11:00 PM, and completely shut down by 12:00 AM.

CHAPTER 11. TEMPORARY USES.

Section. 5.11.1. Purpose and applicability.

- A. The purpose of this Section is to ensure all temporary events and activities are located and coordinated in harmony with the surrounding community. Temporary uses are authorized in this article as temporary accessory or principal uses for time periods proportionate and appropriate to the nature of the temporary use. Temporary uses permitted by this article may not be listed as a use in a particular zoning district. Temporary uses not listed in this article may be permitted through a temporary use agreement approved by the Director of Community Development

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- 3964
- 3965 B. All temporary uses and special events approved subject to the standards and requirements set forth
- 3966 under this article are deemed to be a privilege and not a right, which may be revoked by the city for
- 3967 failure to comply with any of the provisions of this article or any other local, state, or federal law
- 3968 governing the event. Approved temporary uses and special events may also be revoked if such
- 3969 revocation is in the best interest of the city based on emergency, disorder, or other unforeseen
- 3970 conditions. Private events held on private property shall not require a temporary use permit. Signs
- 3971 shall be limited to the signs permitted in Chapter 11 of this article and shall not be allowed within the
- 3972 right-of-way.
- 3973
- 3974 C. Application for a temporary permit.
- 3975
- 3976 1. Temporary use permits shall be coordinated by the Community Development department who
- 3977 may request reviews from the Fire, Police, Building, and Public Works departments as necessary
- 3978 to ensure safety. Plan requirements for a temporary permit are contained within Table 5.13.2.
- 3979 Plan Contents for Outdoor Venue, Outdoor Entertainment Event, and Temporary Use and
- 3980 Special Event Permits.
- 3981
- 3982 2. If a temporary use or event is proposed at a public park property, an application must be
- 3983 submitted to the Parks and Recreation Department along with any applicable fees and proof of
- 3984 insurance.
- 3985
- 3986 3. Private events held on private property shall not require a temporary use permit.
- 3987
- 3988 **Section. 5.11.2. Firework, pumpkin, and Christmas tree sales.**
- 3989
- 3990 Temporary outdoor sales are prohibited, except as provided here in. Excepted seasonal events involving
- 3991 outdoor sales of merchandise shall meet all appropriate requirements of the Building Code, Electrical
- 3992 Code, Fire (Life Safety) Code, and Plumbing Code, particularly regarding temporary sanitary facilities.
- 3993 Temporary outdoor sales are prohibited unless they have applied for and received all required permits in
- 3994 compliance with this Subsection. Firework, pumpkin, and Christmas tree sales may be in all nonresidential
- 3995 zoning districts except the Preservation and Public Zoning Districts subject to the following:
- 3996
- 3997 A. Application. A complete application must be submitted to the Department of Community
- 3998 Development, along with a conceptual site plan. The plan requirements can be found in Table 5.13.2.
- 3999 Plan Contents for Outdoor Venue, Outdoor Entertainment Events, and Temporary Use and Special
- 4000 Event Permits.
- 4001
- 4002 B. Dates and hours of operation:
- 4003
- 4004 1. Firework sales may be operated from December 15 through January 1 and from June 1 through
- 4005 July 10;
- 4006
- 4007 2. Pumpkin sales may be operated from October 1 through November 5;
- 4008
- 4009 3. Christmas tree sales may be operated from November 15 to January 1; and

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4. Lots may be open from 8 AM to 10 PM.
- C. Parking and facilities.
1. Temporary sales lots must provide five parking spaces per half acre. A paved parking lot shall not be required.
 2. Permission to place one or more tents (up to a total of 425 square feet in size) on the site, provided that the applicant provides proof of fire-retardancy and adequate tie-down measures with the application. Tents larger than 425 square feet shall require a separate tent permit. The location and setback of the tent(s) shall be shown on the conceptual site plan. If a sales trailer is being used in lieu of a sales tent, the sales trailer shall be handicap-equipped and accessible in accordance with the Florida Accessibility Code for Building Construction and ADA requirements and shall be anchored in accordance with all applicable building code standards.
 3. Permission to utilize an electric generator on site. A temporary electric pole shall not, however, be authorized by the temporary sale permit. A temporary electric pole shall require a separate permit to be applied for and issued to a licensed electrical contractor.
- D. The Director of the Community Development Department may approve of a temporary outdoor seasonal sale in the RML zoning district, if it is determined that such sale would not result in adverse impacts on the surrounding neighborhood. Approval of a season sale in RML residential district may include conditions to protect the surrounding neighborhood from adverse impacts.
- E. The applicant shall request inspection by the city of the items authorized pursuant to this Section and shall receive approval thereof prior to beginning the sale activity. Inspection of items authorized pursuant to this Section shall be made by the Department of Community Development and Fire Department.

Section. 5.11.3. Outdoor display of merchandise.

Unless otherwise permitted, outdoor display of merchandise is prohibited, except on improved property in accordance with the following conditions:

- A. All outdoor display of merchandise for sale, in non-residential districts is permitted with the following conditions:
1. Except in the downtown zoning district, such displays may be no closer than 10 feet to the front or rear property lines and five feet to side property lines or 15 feet to the side property line on corner lots.
 2. Displays may not be in required parking. If such displays are placed on a public sidewalk, the display shall comply with the following regulations:

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a. Displays may be placed on the public sidewalk only directly in front of the lawfully existing business which retails the items being displayed.

b. Displays shall be placed on tables, shelves, or racks that are moved indoors during any hours the business is not open and that do not exceed six feet in height and do not extend more than two feet onto the public sidewalk.

B. Outdoor display of merchandise for sale on vacant property is prohibited, except as permitted for seasonal events in accordance with Section. 5.14.3. or special events in accordance with Section. 5.14.9.

Section. 5.11.4. Garage sales.

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

A. Garage sales are permitted to be held for a period not to exceed three days, on the basis of three such activities per residence per year, not to be held closer than 30 days apart.

B. Prior to conducting a garage sale, the person conducting such sale is required to obtain a permit online from the city's website or at the Code Enforcement Division's office. Such permit shall be posted or otherwise displayed on the property where the sale is being held to be visible from the street. In the event a garage sale is conducted without a permit, such sale shall be closed by the Police Department or the Code Enforcement Division, and shall remain closed until a valid garage sale permit is received from the city. Garage sale permits shall include authorization for on-site signs and off-site signs in accordance with applicable portions of the City of Cape Coral Land Development Code. On-site or off-site garage sale signs shall not be attached to any utility pole, street sign, tree, or other landscaping.

C. The purchase of items for resale at a residence, which in essence establishes a residence as a second-hand store, is hereby prohibited.

D. A violation of this Section shall be punishable by a fine of not less than \$75 and not more than \$250. Each day any violation of any provision of this Section occurs or continues shall constitute a separate offense. As an alternative, violators may be cited by a Code Enforcement Officer to appear before the Code Enforcement Special Master. In such event, violators shall be subject to fine(s) not to exceed \$250 per day for first time violations or not to exceed \$500 per day for repeat violations, as imposed by the Code Enforcement Special Master pursuant to the City of Cape Coral Code of Ordinances or the Florida Statutes. A person is subject to arrest if he or she refuses to close down a garage sale for which no valid permit is in effect.

Section. 5.11.5. Temporary construction or field office.

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

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

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- 4101
4102 2. The construction trailer must be removed from the site prior to issuance of a certificate of
4103 occupancy.
4104
4105 3. No overnight residential use shall be permitted in a construction trailer.
4106
4107 4. Construction trailers must comply with the setback requirements of the zoning district or the
4108 site.
4109
4110 5. Construction trailers shall not be larger than 200 square feet.
4111
4112 B. Construction trailers in non-residential zoning districts are subject to the following
4113 requirements.
4114
4115 1. When a construction trailer is used as a temporary office, the trailer must be wired for
4116 electricity and must be connected to potable water and sewer facilities, if available. Wiring
4117 and plumbing must conform to applicable Electric and Plumbing Codes.
4118
4119 2. The construction trailer must be located at the construction site or an abutting site with the
4120 property owner's written permission.
4121
4122 3. The construction trailer must be removed from the site prior to issuance of a certificate of
4123 occupancy.
4124
4125 4. No overnight residential use shall be permitted in a construction trailer.
4126
4127 5. Construction trailers must comply with the setback requirements of the zoning district or the
4128 site.
4129
4130 **Section 5.11.6 Construction staging areas and post disaster debris staging**
4131
4132 A. Contractor staging for essential public facilities. Contractor staging areas for materials used in
4133 construction of essential public facilities are permitted in all zoning districts, subject to the following
4134 requirements:
4135
4136 1. The temporary staging area shall serve a project being carried out in the vicinity of the
4137 construction staging area;
4138
4139 2. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;
4140
4141 3. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through
4142 Saturday only;
4143
4144 4. Fencing required;
4145

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

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

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

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

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

Section. 5.11.7. Temporary sales office.

A. Temporary sales offices are mobile structures used only for the sale or lease of units within that development. For the purpose of this section, units to be located within the development shall mean residential, non-residential, or mixed use habitable space or leasable floor area, whether occupying all of a building or individual areas within a building including residential units, residential or non-residential units, individual units in a multi-unit non-residential development, or freestanding residential or non-residential structures.

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

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

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

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

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

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- 4188 5. The entrance to the site on which the temporary sales office is located shall consist of a city
4189 approved driveway or construction entrance. Any impervious area added for the temporary
4190 sales office shall be subject to review and approval by the city.
4191
- 4192 6. The base of any temporary sales office shall be fully obscured by landscaping and skirting.
4193 Shrubs must be planted on 30-inch centers and have a minimum planted height of two feet.
4194 The type of irrigation, if applicable, must also be provided on the plan. Erosion shall be
4195 minimized and prevented to the extent practicable around any disturbed area.
4196
- 4197 7. The maximum duration of the permit shall not exceed one year. The Director may extend
4198 permits for up to six months each, based upon factors that include:
4199
- 4200 a. Size of the project.
4201
4202 b. Number of lots or units in the development remaining to be sold or leased.
4203
4204 c. Effect that the extension would have on the surrounding properties.
4205
4206 d. Developer's need for an extension and efforts, if any, the developer has put forward
4207 toward completion of the development (e.g., effort to complete construction in a timely
4208 manner, delays beyond the reasonable control of the developer, etc.).
4209
- 4210 8. A temporary sales office shall be removed no later than the date the development is completed
4211 or within 30 days after notice by the city that the application for development has been denied,
4212 whichever is applicable.
4213
- 4214 C. Permit application and submittal requirements. A permit shall be required for a temporary sales
4215 office. In order to obtain a permit for the use of a structure for a temporary sales office, the
4216 applicant shall submit the following to the Department of Community Development:
4217
- 4218 1. A scaled drawing of the site, identifying the location of the temporary sales office with
4219 dimensions. Construction plans shall also be submitted.
4220
- 4221 2. The names of the property owner and the operator of the temporary sales officer. In the
4222 event the operator is different from the property owner, written and notarized consent from
4223 the property owner must be submitted. Such written consent shall be revocable. In the event
4224 such consent is revoked, the temporary sales office shall be removed within 30 days.
4225
- 4226 3. The length of time the temporary mobile sales office is proposed for the site.
4227
- 4228 4. The description of potable water and sanitary facilities that will be available for the
4229 temporary office.
4230

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

Section. 5.11.8. Temporary Storage Containers.

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

1. Residential zoning districts. No more than one temporary storage container per dwelling unit is permitted in residential zoning districts.
2. Non-residential zoning districts. No more than two temporary storage containers are permitted in non-residential zoning districts. In the case of multi-tenant non-residential properties, each business or tenant may have a temporary storage container.
3. This section is not intended to restrict the storage or location of temporary storage containers on the premises of a business which is lawfully engaged in the sale, rental, or distribution of such containers so long as the containers are on the property of such business as "merchandise" and not for temporary storage of items or goods.
4. The provisions of this section shall not apply to prohibit or restrict the location of temporary storage containers on any property for which a valid City of Cape Coral building permit has been issued and is in effect provided that the construction on the property has not been abandoned or allowed to lie idle in violation of § 5-2 of the City of Cape Coral Code of Ordinances.

- B. General Requirements:

1. No temporary storage container may be placed in one or more parking spaces if the required number of parking spaces is reduced below the minimum number of spaces required for the site.
2. No temporary storage container shall block or reduce access to fire lane(s), handicapped parking area(s), or drainage facilities or structures, including swales and catch basins.
3. Temporary storage containers shall not be placed in an easement or in any area designated as a buffer.
4. The maximum size of temporary storage containers shall not exceed ten feet in width, ten feet in height, or 40 feet in length.
5. Non-residential zoning districts. Temporary storage container permits are valid for 30 days. A maximum of two temporary storage container permits may be issued for a property or, in the case of multi-use or multi-unit properties, for each business or commercial enterprise located on the property in any calendar year. Temporary container permits may run

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consecutively without any minimum period required to elapse between the issuance of permits.

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

Section 5.11.9. Temporary Habitable Structures

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

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

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

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

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

G. Applications for temporary placement permits.

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

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

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period, the temporary habitable structure may remain in place until the TPP is either approved or denied. Once approved, the temporary habitable structure may remain in accordance with the TPP. If denied, the temporary structure shall be removed within five days from the date of denial.

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

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

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

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

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- 4414
- 4415 2. Must meet all applicable National Fire Protection Association and Life Safety codes and
- 4416 regulations as well as all applicable state and local requirements for tie-downs.
- 4417
- 4418 3. Shall contain plumbing (both water and wastewater) and electrical connections and shall be
- 4419 capable of being hooked up or attached to external plumbing and electrical systems. Temporary
- 4420 residential structures shall contain a kitchen capable of being hooked up or attached to external
- 4421 plumbing and electrical systems. Requirements for temporary business structures shall be
- 4422 based upon the proposed use.
- 4423
- 4424 4. Shall meet the Florida Accessibility Code for building construction amenities.
- 4425
- 4426 L. Placement of temporary habitable structures. The following site considerations are required for
- 4427 placement of a temporary habitable structure:
- 4428
- 4429 1. Temporary residential structures may be anywhere on the site of the existing permanent
- 4430 residence; however, no a temporary residence is allowed within road rights-of-way or
- 4431 drainage or utility easements. The city may waive any development regulations regarding lot
- 4432 areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
- 4433 temporary residential structures.
- 4434
- 4435 2. Where more than one existing permanent residence has been rendered uninhabitable, the
- 4436 Building Official may allow up to the number of damaged permanent residences or residential
- 4437 units on the site. Such determination shall be based upon consideration of life, health, and
- 4438 safety requirements.
- 4439
- 4440 3. For temporary business structures:
- 4441
- 4442 a. Temporary business structures may be anywhere on the parcel of the existing business;
- 4443 however, temporary business structures are not allowed within road rights-of-way or
- 4444 drainage or utility easements. The city may waive any development regulations regarding
- 4445 lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
- 4446 temporary business structures.
- 4447
- 4448 b. Temporary business structures may be on property adjacent to the permanent business
- 4449 structure if a notarized, written consent from the property owner is submitted at the
- 4450 time of application for a TPP.
- 4451
- 4452 c. The establishment of an emergency response team center on a parcel containing a
- 4453 business does not necessarily preclude the placement of one or more temporary business
- 4454 structures on the same parcel.
- 4455

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- 4456 d. Parking for a temporary business structure shall be provided based upon the square footage
4457 of the temporary business structure, including handicapped parking. However, a minimum
4458 of two handicapped parking spaces must be provided.
4459
- 4460 e. The entrance to the site shall have a city approved driveway or construction entrance.
4461 Any impervious area added for the temporary business structure shall be subject to
4462 review and approval by the city.
4463
- 4464 f. Additional conditions or restrictions may be placed on a temporary business structure as
4465 a condition of issuance in areas including, but not limited to, the following:
4466 i. Hours of operation;
4467 ii. Traffic control and access;
4468 iii. Lighting; and
4469 iv. Noise control.
4470
- 4471 M. Issuance and revocation. The Building Official may revoke a TPP upon finding that any of the
4472 following has occurred:
4473
- 4474 1. Failure to connect to water, sewer, and electrical within 20 days of the receipt of the TPP.
4475
- 4476 2. If an application for a building permit has not been submitted within required time from the
4477 date of receipt of the TPP, or relocation has not occurred before the time of expiration of the
4478 TPP, or, if a building permit later expires.
4479
- 4480 3. If, upon inspection by the Building Official, a temporary residence is not in compliance with
4481 the requirements of this subsection.
4482
- 4483 4. Failure to evacuate temporary residence during mandatory evacuation orders.
4484
- 4485 5. Upon revocation of a TPP, the temporary residence must be vacated and the temporary
4486 residence removed within five days of revocation. Failure to vacate or remove the temporary
4487 residence constitutes a violation subject to the penalty imposed herein.
4488
- 4489 N. Extensions and expiration of temporary placement permits.
4490
- 4491 1. Residential TPPs shall be valid for six months from the date of issuance. The Building Official
4492 may, for good cause shown, issue up to two extensions for six months each, for an 18-month
4493 maximum period of validity from the date of issuance.
4494
- 4495 2. Non-residential TPPs shall be valid for nine months from the date of issuance. The Building
4496 Official may, for good cause shown, issue up to two extensions for six months each, for a 21-
4497 month maximum period of validity from the date of issuance.
4498
- 4499 3. All applications for extensions of time must be submitted prior to the date of expiration of
4500 the current TPP.

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

Section. 5.11.10. Special events.

- A. Permit required. The following types of events shall require a permit:
 1. An event expected to draw 500 or more persons at any session, as participants or spectators, which is proposed to be held on public property; or
 2. An event expected to draw less than 500 persons at any session as participants or spectators, which is proposed to be held on public property, if a street closing is required; or
 3. An event expected to draw 500 or more persons at any session as participants or spectators, which is proposed to be held on private property; if said participants or spectators will occupy adjacent public streets or public property during the event.

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- 4544 B. An applicant may apply for a permit to sponsor a special event in the city by submitting the following
4545 documents to the Department of Parks and Recreation:
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- 4547 1. A completed, signed, and notarized application shall be submitted no less than 60 days prior to
4548 the opening of the event. Exceptions to the 60-day requirement may be approved by the Director
4549 of Parks and Recreation, based upon the size, duration, and nature of the event. The city reserves
4550 the right to verify the applicant's previous history of sponsoring special events with other
4551 jurisdictions.
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 - 4553 2. A non-refundable application and processing fee of \$40.
4554
 - 4555 3. A \$250 refundable clean-up deposit in the form of either cash or certified check payable to the
4556 City of Cape Coral. The property shall be cleaned within 48 hours of the close of the event and
4557 returned to substantially the same condition as just prior to the start of the event, or better. The
4558 clean-up deposit will be refunded to applicant upon satisfactory inspection of the property, by
4559 the city, after the event closes. If, within 48 hours after the close of the event, the property is not
4560 returned to substantially the same condition as prior to the start of the event, or better, the city,
4561 in its sole discretion, may utilize the clean-up deposit to do so and refund the remainder, if any,
4562 to the applicant.
4563
 - 4564 4. Plan requirements for a special event permit are contained within Table 5.13.2. Plan Contents for
4565 Outdoor Venue, Outdoor Entertainment Event, and Temporary Use and Special Event Permits.
4566
- 4567 C. A tent may be erected for a special event for a maximum of five days. Any tent over 900 square feet
4568 will require a fire inspection.
4569
- 4570 D. Insurance requirements.
4571
- 4572 1. Certificates of insurance for all properties used for the event must be submitted to the Parks and
4573 Recreation Department for approval by the city's Risk Manager no less than 21 days prior to the
4574 event.
4575
 - 4576 2. Applicants and vendors shall have commercial or general liability insurance, including coverage
4577 for independent contractors, premises and operations, contractual liability, products and
4578 completed operations, personal injury, and property damage. Insurance coverage shall be no less
4579 than \$1,000,000 combined single limit for bodily injury and property damage and no less than
4580 \$1,000,000 for liquor liability, if applicable.
4581
 - 4582 3. Vendors shall also have motor vehicle liability insurance for any motor vehicle of no less than
4583 \$1,000,000 and workers' compensation coverage, as required by statute.
4584
 - 4585 4. The City of Cape Coral shall be named as additional insured. Certificates of insurance shall show
4586 the City of Cape Coral as the certificate holder.
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- 4588 E. In determining whether a permit shall be issued, the Director of Parks and Recreation, shall consider
4589 certain criteria including:

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1. The size, duration, and nature of the event;
 2. Previous history, if any, of organizing events within Lee County and whether said events created hazards or safety situations;
 3. Other events previously scheduled during the same time period within the city;
 4. If the applicant has been adjudicated guilty of violating any provision of this Section, said adjudication may constitute grounds for denial of future special events permits by the city; and
 5. The Director of Parks and Recreation, may, in his or her sole discretion, deny the applicant a permit for the special event within the City of Cape Coral.
- F. Special events shall be held in accordance with the following:
1. All applicable city ordinances and building, fire, and electrical codes shall be complied with.
 2. Most events shall require off-duty City of Cape Coral police officers to be hired for the duration of any event to include one hour before opening and one hour after closing. The Police Chief, shall determine the number of officers required, if any, based upon the size and nature of the event and past experience with similar events. The cost for the off-duty detail shall be set using the present rate charged by the Police Department which shall be paid by the applicant prior to the issuance of the permit. All applicants must comply with any rules or regulations imposed by the Police Chief, which are consistent with this Section.
 3. Most events shall require off-duty City of Cape Coral firefighters or paramedics, to be hired for the duration of any event to include one hour before opening and one hour after closing. The Fire Chief, shall determine the number of firefighters or paramedics required, if any, based upon the size and nature of the event and past experience with similar events. The cost for the off-duty detail shall be set using the present rate charged by the Fire Department which shall be paid by the applicant prior to the issuance of the permit. All applicants must comply with any rules or regulations imposed by the Fire Chief, which are consistent with this Section. In the event the Fire Chief determines that special equipment such as all-terrain vehicles, trailers, fireboats, or fire and rescue assets, and appropriate personnel for the special equipment are necessary, the city reserves the right to request reimbursement for all or part of the discretionary cost from the applicant.
 4. No open flame or other device emitting flames or fire shall be used in any tent or air supported structure while open to the public.
 5. All equipment including, but not limited to, tents, stages, amusement rides, utility areas, ingress and egress locations, and cooking areas shall be inspected and approved by city fire inspectors or state officials, if applicable, prior to the opening of the event. If applicable, inspection certificates and annual permits, as required by the State of Florida, shall be submitted to the city prior to the opening of the event. All equipment and amusement rides, other than those which are patron-

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

6. Special event signs shall be permitted in accordance with the Land Development Code, Article 7.
7. Any person, entity, group, or organization engaging in speech, expression, or assembly, which is protected by the First Amendment of the United States Constitution or by Article I, Section 4 of the State of Florida Constitution, may do so during a Special Event, subject to the following reasonable time, place, and manner regulations.
 - a. The Director of Parks and Recreation shall have the authority to designate one or more areas during any special event for specific activities and to prohibit other activities within designated areas. The Director of Parks and Recreation shall post designated areas when such posting is appropriate.
 - b. If sound amplifying equipment is present, it shall be in accordance with a permit issued per Section. 5.13.4.c Outdoor Entertainment Event. The Director of Parks and Recreation shall establish one or more designated areas on public property within the area of the special event where such amplified sound may occur. If sound amplifying equipment is present on private property at the special event, the Director of Parks and Recreation may establish one or more designated areas on public property within the area of the special event where other amplified sound may occur. If amplified sound is not present on public or private property during the special event, all amplified sound shall be prohibited; however, nothing in this regulation shall serve to prohibit protected speech, expression, or assembly utilizing non-amplified, reasonable sound.
 - c. The Director of Parks and Recreation shall be responsible for the provisions of this Section, department rules and regulations, and city ordinances. No action shall be taken to enforce this Section until a warning to cease such a violation has been issued by a person authorized to enforce this Section and the violator continues such violation.
8. No person shall be permitted into, or remain on, private property covered by any special event permit for an event open to the public without the consent of the permittee.
9. If a special event is open to the public only upon a payment of an entry fee or charge, no person shall be permitted into the special event without first paying the entry fee or charge.
10. No person shall unreasonably hamper, obstruct, impede, or interfere with any person, entity, group, or organization hosting a permitted special event.
- G. Order to cease operation. If the Director of the City of Cape Coral's Parks and Recreation Department, or his or her designee, determines that proper provisions have not been made for the protection of

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the public health, safety, or welfare, he or she may issue an order to cease operating the special event until satisfactory corrective action has been taken.

H. All requirements of this Section are subject to modification or waiver by the City Council based upon the size, duration, nature of the event, and the city's involvement.

I. Intentional underestimation of the expected number of persons attending the event or failure to comply with any provision of this Section, shall constitute a violation of this Section, and shall subject the applicant to the code enforcement provisions and procedures in article 7 of the City of Cape Coral LDC including any and all provisions that allow the city to seek relief as otherwise provided by law.

J. Penalty. A violation of this Section shall be punishable by a minimum fine of \$100 and a maximum fine of \$500, in addition to the taxation of any court costs, or imprisonment for a term not to exceed 60 days, or by both a fine and imprisonment.

Section 5.11.11. Temporary Off-Site Vehicle Sales.

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

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

1. The commercial establishment seeking the temporary sale permit must have the written permission of the owner, or an authorized representative of the owner, of the property on which the temporary sale will be conducted. The written permission shall state that, as a condition of the city's issuance of a permit for the temporary sale, the property owner agrees to be responsible for any damage to the city's right-of-way or utility systems as a result of the sale and that any such damage shall be repaired at the expense of the property owner. In addition, such written permission shall also state that, in consideration of the city's issuance of the permit, the property owner shall hold the city harmless from any claim, loss, damage, or cause of action that arises because of the temporary sale or the issuance of the permit therefore, including any loss or damage to the owner's property or improvements thereon. Such written permission shall have a notarized signature and shall be filed with the Department of Community Development.
2. The duration of any such temporary sale shall not exceed five consecutive days.
3. The property on which the off-site sale is conducted shall not have been used for temporary off-site sales for more than six occasions in the preceding one-year period.
4. Temporary sales shall only be conducted between the hours of 8:00 a.m. to 9:00 p.m.

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- 4727 5. The display of vehicles and the operation of the temporary sale shall not interfere with the
4728 normal parking and traffic circulation of the business(es) located on the site.
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- 4730 6. The temporary off-site vehicle sales permit shall, at all times during the permitted time period
4731 authorized for the sales, be displayed on the site upon which such sales are being conducted.
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- 4733 7. No temporary sale shall begin until a permit therefore has been approved and issued by the city
4734 and all fees are paid in accordance with the city's adopted fee schedule. Prior to the issuance
4735 of a temporary sale permit, a complete application must be submitted to the Department of
4736 Community Development, along with a conceptual site plan. In addition to the proposed site
4737 layout and setbacks, the conceptual site plan shall address vehicular traffic and parking
4738 measures, fire protection measures, sanitary facilities and lighting and areas of electric needs.
4739 The temporary sale permit shall include, as applicable:
- 4740
- 4741 a. The right to erect one sign or banner, a maximum of 32 square feet in size, or two such signs
4742 or banners for properties having frontage on more than one street. In lieu of such sign(s) or
4743 banner(s), the applicant may display an inflatable object in accordance with **Article VII, §**
4744 **7.13, of these Land Development Regulations**. The applicant shall include with the
4745 application sign details such as the placement of the sign and anchoring or tie-down
4746 measures. The placement and anchoring of the means of advertisement shall not interfere
4747 with the visual safety of motoring traffic.
- 4748
- 4749 b. Permission to place one or more tents (up to a total of 425 square feet in size) on the site,
4750 provided that the applicant provides proof of fire-retardancy and adequate tie-down
4751 measures with the application. Tents larger than 425 square feet shall require a separate
4752 tent permit. The location and setback of the tent(s) shall be shown on the conceptual site
4753 plan. If a sales trailer is being used in lieu of a sales tent, the sales trailer shall be handicap-
4754 equipped and accessible in accordance with the Florida Accessibility Code for Building
4755 Construction and ADA requirements and shall be anchored in accordance with all applicable
4756 building code standards.
- 4757
- 4758 c. Permission to utilize an electric generator on site. A temporary electric pole shall not,
4759 however, be authorized by the temporary sale permit. A temporary electric pole shall
4760 require a separate permit to be applied for and issued to a licensed electrical contractor.
4761
- 4762 d. d. The applicant shall request inspection by the city of the items authorized under this
4763 section and shall receive approval thereof prior to beginning the off-site sale activity.
4764 Inspection of items authorized pursuant to subparagraphs a. through c. shall be made by
4765 the Department of Community Development. Items authorized pursuant to subparagraphs
4766 b. and c. shall also be made by the Fire Department.
- 4767
- 4768 B. Any other outdoor display on improved property must be approved by City Council and is subject
4769 to review annually at the discretion of Council, except that the City Manager may approve requests
4770 for temporary displays of no longer than five days duration no more than two times per calendar
4771 year for any location or applicant when he or she is satisfied that the request would be in keeping

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with the harmony of the zoning district and that it would violate none of the ordinances of the City of Cape Coral.

Section. 5.11.12. Tents, for other than Special Events.

A tent may be permitted to be erected for a for a maximum of five days for an event. Any tent over 900 square feet will require a fire inspection.

Section. 5.11.13. Other events not named.

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

Chapter 12. - SPECIFIC USE REGULATIONS

5.12.1. Purpose and applicability.

The uses listed in this chapter are deemed to be appropriate uses when developed and operated in accordance with the requirements listed within each Section. Approval may be granted administratively as long as the requirements are met and maintained. The applicant shall provide all documents necessary to prove that the requirements are met prior to receiving approval to operate and on an ongoing basis as required for the specific use.

Section. 5.12.2. Artisan breweries, distilleries, and wineries.

A. Requirements. All artisan breweries, distilleries, or wineries which produces alcoholic beverages for consumption on premise or provide retail sales, shall comply with the following requirements:

1. The business owner shall submit semi-annual production records to the Department of Community Development for all alcohol and nonalcohol products produced within the establishment.
2. All mechanical equipment used in the alcohol production process shall be behind a wall or fence that separates the equipment from any property line abutting a public street other than an alley when viewed along a line perpendicular or radial to such property line. The wall or fence shall be opaque and have a minimum height of six feet.
3. Loading and unloading areas shall be provided to the side or rear of the building. Loading and unloading areas shall not be along the front of the building.
4. Spent or used grain or similar wastes may be placed outdoors for a period not to exceed 24 hours. The temporary stockpiling for spent or used grain shall be:
 - a. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the stockpiled spent grains on the property and the distance of the stockpiled

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grains from the property lines and the building containing the artisan brewery, distillery, or winery;

b. Located only along the side or rear of the building;

c. Fully enclosed in containers that are behind an opaque wall or fence. The wall or fence shall have a minimum height of six feet. Cargo containers and tractor trailers shall not be utilized for the temporary stockpiling of spent or used grains even if the cargo containers and tractor trailers are behind an opaque wall or fence.

B. Waiver of requirements.

1. Permitted and Conditional Uses

a. To encourage the repurposing of existing buildings within the NC or SC districts, any artisan brewery, distillery, or winery that is approved as a permitted use, provisions A(2), A(3), and A(4) within this Section may be waived in part or in their entirety by the Community Development Director for the purpose of spurring economic development based on the criteria contained in Subsection(3).

2. Special Exception Uses. For any artisan brewery, distillery, or winery that is approved as a special exception use, provisions A(2), A(3), and A(4) within this Section may be waived in part or in their entirety by the Director based on the criteria contained in Subsection B(3).

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

a. The visibility of the mechanical equipment and loading areas from any public street(s).

b. The proximity and visibility of the mechanical equipment and loading areas from existing residential development.

c. The existence of site conditions that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship.

d. The effect other regulations would have on the proposed development or other locational factors that may make compliance with this Section impossible or impracticable.

e. The annual production of alcohol anticipated to be produced by the establishment.

f. The size and extent of the equipment requiring screening.

5.12.3. Duplex.

In RML zoning districts a duplex must meet the following conditions:

A. Both units must be served by a single, circular driveway to avoid residents backing into streets.

B. Landscaping shall be provided at a rate of two trees and six shrubs per each 2,500 square feet of the lot.

C. Attached residential developments shall incorporate three of the following design elements into each dwelling unit:

1. Dwelling entry as the primary façade feature;

2. Garage door recessed from the front façade, a preferred minimum of four feet;

3. Horizontal eaves broken up with gables, projection, and articulation;

4. Projecting eaves and gables, related to building massing;

5. Building massing and roof form which articulate individual unit definition;

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6. Offset of four feet where two garage doors are adjacent to each other; or
7. Projections and decorative elements, such as trellises, for visual interest.

Section. 5.12.4. Heliports and helistops

1. Heliports and helistops may only be permitted as a special exception as an accessory use to a hospital or emergency care medical center or in association with the Lee County Mosquito Control district, Cape Coral Police Department, or Lee County Sheriff's Department.

Section. 5.12.5. - Home occupations

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

- A. All home occupations operated in or from a residence shall comply with federal, state, and county rules and regulations, city license regulations specified herein and any other applicable ordinances of the City of Cape Coral.
- B. No person other than members of the immediate family may be employed for a salary, commission or upon any other remunerative basis.
- C. No condition shall be permitted which tends to cause or increase the fire hazard to the residence, such as storage of paints or other flammable materials in excess of normal family use.
- D. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display of materials be visible from the outside of the structure.
- E. No home occupation shall occupy an area greater than 10% of the living area of the structure.
- F. The home occupation shall not generate pedestrian or vehicular traffic beyond that which is reasonable to the district in which it is located and it shall not involve the use of commercial vehicles for delivery of materials to or from the residence.
- G. The appearance of the structure shall in no way be altered for the conduct of the home occupation within the structure nor shall the conduct be such that the structure may be recognized as serving a non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations, audible or visible interference in any radio or television receiver off the premises, or cause fluctuations in the electric voltage line off the premises.
- H. No business operated under a fictitious name shall be issued a license to operate under this Section.

Section. 5.12.7. Outdoor dining.

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

- A. All outdoor seating:
 1. Music may be permitted to be performed or amplified in outdoor seating areas, in accordance with Section 12-22, or in accordance with a permit per Chapter 13 of this Article.
 2. Parking shall be provided at a rate of 1 parking space per 200 square feet of outdoor dining area.
- B. Outdoor seating in public areas.
 1. The number of outdoor seats and tables shall be limited to that number that can be reasonably accommodated according to the available widths of the associated storefront and sidewalk or patio area. Adjacent sidewalk bulb-out areas, even if not directly in front of the associated storefront, may be considered on an individual basis, when the affected storefront owner does not object.

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2. Clear pedestrian access shall be maintained at all times, and no seating or tables shall interfere with ingress and egress to buildings or create an unsafe situation with street traffic.
3. The sidewalk café owner or operator shall remove any seating or tables when the business is closed, or when an authorized agent of the city makes such a request.
4. Public sidewalks adjacent to any approved sidewalk café shall be properly maintained for safety and cleanliness by the sidewalk café owner or operator on a daily basis. Litter, dirt, grime, grease, and food shall not be permitted to accumulate at any time.
5. An indemnity agreement, provided by the director of Community Development shall be signed and provided by the sidewalk café owner or operator, along with proof of public liability insurance as approved by the city attorney.

Section. 5.12.8. RV resorts.

- A. General provisions. Within a recreational vehicle park, recreational vehicles that meet the requirements herein, whether self-propelled or pulled by a towing vehicle, and camping cabins, as regulated herein, may be used for temporary lodging. Facilities to accommodate administration, maintenance, recreation, dining, and personal care may be included within a recreational vehicle park. Recreational vehicle parks shall be deemed to be nonresidential uses, and any transient guest site occupied by a registered guest of a recreational vehicle park shall not be deemed to be a "residence", "dwelling," or "residential premises" within the meaning of other provisions of the City of Cape Coral regulations. The management of all transient guest sites and camping cabins must be performed by a single on-site management company or entity, regardless of whether the transient guest sites, camping cabins, or both are owned by more than one person or entity.
- B. Lodging unit characteristics. Lodging shall only be allowed within recreational vehicles and camping cabins that have all of the following characteristics:
 1. Recreational vehicles:
 - a. Shall be no more than eight and one-half feet in body width, exclusive of safety devices when slide outs are retracted;
 - b. Shall have water and wastewater systems designed for continuous connection to water and wastewater service facilities while parked at a transient guest site; and
 - c. Shall not be constructed with collapsible partial sidewalls that fold for towing in such a way as to be unusable for occupancy.
 2. Camping cabins shall comply with all of the following criteria:
 - a. Cabins shall be constructed in compliance with the Florida Building Code;
 - b. The square footage of interior space shall be a minimum of 200 square feet and a maximum of 600 square feet;
 - c. Cabins shall be equipped with electric service and a full bathroom;

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- 4955 d. Cabins are exempt from non-residential design standards, however when there is more than
- 4956 one cabin in a development, the color scheme, exterior materials on walls, exterior roof
- 4957 finishing, and roof type must be consistent among all cabins;
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- 4959 e. Corrugated metal is prohibited for exterior walls; and
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- 4961 f. Roofs shall consist of pitched roofs, including but not limited to, gable, hip, or mansard
- 4962 roofs; however, mansard roofs with flat decks and shed style roofs are prohibited.
- 4963
- 4964 C. Location. Recreational vehicle parks are permitted only on property with a Mixed-Use future land
- 4965 use designation. No new recreational vehicle park shall be developed and no existing recreational
- 4966 vehicle park shall be expanded within a coastal high hazard area, as depicted in the Comprehensive
- 4967 Plan.
- 4968
- 4969 D. Minimum interior road standards. All interior roads shall be privately owned and maintained, and
- 4970 shall be constructed in accordance with the structural requirements within the City of Cape Coral
- 4971 Engineering Design standards.
- 4972
- 4973 E. Overall recreational vehicle park area and density. The following requirements shall apply to the
- 4974 recreational vehicle park net area:
- 4975
- 4976 (1) Minimum recreational vehicle park net area: 25 acres;
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- 4978 (2) Maximum net density: 10 transient guest sites per acre, based on net area; and
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- 4980 (3) Minimum net density: For recreational vehicle parks with a net area of less than 50 acres, the
- 4981 minimum quantity of transient guest sites shall be 50; for recreational vehicle parks with a net area
- 4982 of 50 or more acres, there shall be no less than one transient guest site per acre, rounded to the
- 4983 nearest whole number.
- 4984
- 4985 For purposes of this section, the net area shall mean the area of the recreational vehicle park minus
- 4986 extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If an extant
- 4987 wetland or water area is expanded or contracted, the net area shall be based on the resultant
- 4988 wetland and water areas.
- 4989
- 4990 F. Transient guest sites. Transient guest sites can be designed with either: 1) a pad for parking one
- 4991 recreational vehicle; 2) one camping cabin; or 3) a pad for parking one recreational vehicle and one
- 4992 camping cabin. The following standards shall apply to transient guest sites within a recreational
- 4993 vehicle park:
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- 4995 1. Each transient guest site shall be clearly defined by a permanent marker, constructed of a
- 4996 durable material such as masonry or metal, placed at all corners;
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- 4998 2. No transient guest site shall include any space used for common areas, such as roadways,
- 4999 sidewalks, or community recreation areas;

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3. No more than 25% of the total transient guest sites shall be developed with a camping cabin. Transient guest sites with a pad for parking one recreational vehicle and one camping cabin shall not be factored into the 25% limitation to the number of camping cabins;
 4. All transient guest sites shall be designed to provide runoff of surface water to a drainage system or basin external to the transient guest site;
 5. Impervious area shall not exceed 65% of any transient guest site. Pervious areas of each transient guest site shall be covered in turf, groundcover, shrubs, trees, or any combination thereof;
 6. Each transient guest site shall have direct vehicular access to an interior road. No transient guest site shall have direct vehicular access to a public street;
 7. No transient guest site shall be located closer than 40 feet to any public street right-of-way;
 8. Separation: Each transient guest site shall be designed to ensure minimum separation between units. When measuring the distance from a recreational vehicle pad, paved areas that project more than four and one-half feet from the centerline of the pad, e.g., driveway apron flares, walkways, and patio areas, may be excluded. Distances of separation shall be as follows:
 - a. Between camping cabins: 15 feet;
 - b. Between a camping cabin and a recreational vehicle pad on the same transient guest site: 15 feet;
 - c. Between a camping cabin and a recreational vehicle pad on a separate transient guest site: 20 feet;
 - d. Between a transient guest site boundary line and a camping cabin: 7½ feet; and
 - e. Between transient guest site boundary line and a recreational vehicle pad: 7½ feet.
 9. Each transient guest site designed with a pad for parking a recreational vehicle shall have the following standards:
 - a. Maximum number of recreational vehicles: 1;
 - b. Minimum site area: 2,000 square feet;
 - c. Maximum site area: 1 acre;
 - d. Minimum site width: 35 feet, measured at right angles to and between the designated side boundary lines; and

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- 5046 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
5047 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
5048 asphalt as a paving material for vehicle pads and driveways is prohibited.
5049
- 5050 10. Each transient guest site developed with a camping cabin shall have the following standards:
5051
- 5052 a. Maximum number of camping cabins: 1;
5053
5054 b. Minimum site: 2,500 square feet; and
5055
- 5056 c. Parking space: Each site developed with a camping cabin shall include a minimum of one
5057 automobile vehicle parking space, paved with concrete or pavers, or as otherwise approved
5058 by the city, with minimum dimensions of 9 feet by 18 feet. This limitation shall not apply to
5059 transient guest sites with a pad for parking one recreational vehicle and one camping cabin.
5060 The use of asphalt as a paving material for vehicle parking spaces is prohibited.
5061
- 5062 11. Each transient guest site developed with both a pad for parking a recreational vehicle and with
5063 a camping cabin shall have the following standards:
5064
- 5065 a. Maximum number of units: one camping cabin and a pad for parking no more than one
5066 recreational vehicle;
5067
- 5068 b. Minimum site area: 5,000 square feet;
5069
- 5070 c. Maximum site area: 1 acre;
5071
- 5072 d. Minimum site width: 35 feet, measured at right angles to and between the designated side
5073 boundary lines; and
5074
- 5075 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
5076 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
5077 asphalt as a paving material for vehicle pads and driveways is prohibited.
5078
- 5079 12. Each transient guest site may also include accessory structures for outdoor living, including, but
5080 not limited to, an outdoor kitchen, fire pit, spa, hot tub, gazebo, shade shelter, marine
5081 improvements, and other hardscape features.
5082
- 5083 G. Utilities. Each transient guest site shall have direct connections to central potable water, central
5084 wastewater, and electric services. All water and wastewater utility infrastructure within a
5085 recreational vehicle park shall be privately owned and maintained, except as otherwise approved
5086 by the City Council. Within the recreational vehicle park, all telephone, electric, television cable
5087 service, or other wires of all kinds must be underground, provided, however, that appurtenances
5088 to these systems which require aboveground installation may be exempted from these
5089 requirements and primary facilities providing service to the site of the development or necessary
5090 to service areas outside the planned development project may be exempted from this requirement.
5091

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- 5092 H. Lighting. All roads, walkways and parking areas shall be provided with lighting adequate to ensure
5093 the safety of vehicular and pedestrian traffic. All lighting shall be designed so that it is not directed
5094 toward neighboring properties.
5095
- 5096 I. Parking. In addition to parking spaces on transient guest sites, a minimum of one parking space per
5097 ten recreational vehicle sites within the park shall be provided for visitors.
5098
- 5099 J. Designated storage. Except for boats at a rental facility or moored at a marine improvement, boats
5100 and utility trailers (tow dollies, "toy haulers", etc.) shall be stored in a designated storage area that
5101 shall occupy no more than 5% of the gross area of the park. Such storage area shall be for the
5102 exclusive use of registered guests. Only during the period the guest is a registered occupant of a
5103 transient guest site. Designated storage areas shall be enclosed by an opaque visual barrier that is
5104 a minimum of eight feet in height. The following materials, either singly or in any combination, are
5105 the only materials that may be used to form the opaque visual barrier:
5106
- 5107 1. Wood, plastic, vinyl, or metal fencing;
 - 5108
 - 5109 2. Concrete block and stucco wall;
 - 5110
 - 5111 3. Brick wall; or
 - 5112
 - 5113 4. Formed, decorative, or precast concrete.
 - 5114
- 5115 No storage area shall be located closer than 40 feet to any exterior property line of the recreational
5116 vehicle park. No repair or maintenance other than cleaning shall be conducted within such storage
5117 area.
5118
- 5119 K. Recreation area. At least one recreation area shall be provided within the park, designed and
5120 improved to serve the recreational needs of the park users. The recreation area(s) shall be a
5121 minimum of 500 square feet per transient guest site. All recreation areas shall be accessible to all
5122 occupants of the park. If more than one recreation area is provided, no recreation area shall be less
5123 than 10,000 square feet. A minimum of 50% of the total required recreation area shall be comprised
5124 of recreation within a building, or outdoor facilities for active recreation, including, but not limited
5125 to, swimming pools, ball fields, tennis courts, or play lots with facilities. No portion of any transient
5126 guest site, perimeter buffer yard, internal road or road easement, or stormwater management area,
5127 except as provided below, shall be counted as required recreation area. Bodies of water may be
5128 counted toward required recreation area if recreational use is not otherwise prohibited on or in the
5129 body of water and if recreational amenities, including, but not limited to, a beach, boat rental or
5130 launching facilities, are provided. In no event, however, shall bodies of water comprise more than
5131 50% of the required recreation area.
5132
- 5133 L. Landscaping plan. Requests for special exception approval for a recreational vehicle park shall be
5134 accompanied by a landscaping plan that provides, at a minimum, compliance with **§ 5.2.**
5135
- 5136 M. Phasing. The City Manager or the City Manager's designee shall not issue a certificate of use for a
5137 recreational vehicle park prior to completion of construction of all of the transient guest sites,

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internal roads, drainage system, potable water and wastewater utilities, landscaping and buffering, and accessory structures approved for the park, unless the Hearing Examiner and Appeals (or the City Council, when applicable) approves a phasing plan that identifies size, location, sequence, and timing of the various phases of the development. If a phasing plan is approved, the City Manager or the City Manager's designee shall not issue a certificate of use for any phase that has not been completed in its entirety.

N. Operation generally.

1. Responsibilities of management. The owner of a recreational vehicle park shall, at all times, maintain the park and its facilities in a clean, orderly and sanitary condition. The park management shall inform all registered occupants of transient guest sites of the provisions of this section and other related ordinances and statutes, and of their responsibilities thereunder.

2. Certificate of use required. No lodging within recreational vehicles or camping cabins shall occur prior to the issuance of a certificate of use for the recreational vehicle park.

3. Length of occupancy. No owner of any recreational vehicle park shall allow or permit any transient guest sites in a recreational vehicle park to be rented to or occupied by any person or recreational vehicle for any period of time that would permit or allow any person or recreational vehicle to remain at such recreational vehicle park for more than 180 days in any 365-day period.

4. Register of occupants. The owner or operator of any recreational vehicle park shall file a report with the Director of the Department of Community Development showing the guest names and addresses, recreational vehicle license numbers, dates of arrival and departure, and the transient guest site occupied by each guest at the recreational vehicle park during the preceding calendar quarter. Such reports shall be filed not later than April 15th, July 15th, October 15th and January 15th for the immediately preceding calendar quarter.

O. Inspections authorized. The City Manager or the City Manager's designee is hereby authorized to make periodic inspections of the recreational vehicle park and transient guest sites for the purpose of determining satisfactory compliance with the regulations of this section pertaining to the health, safety and welfare of the community.

P. Incidental facilities and amenities. Various facilities and amenities incidental to a recreational vehicle park are permissible, however, all facilities and amenities must meet all requirements stated herein together with any additional conditions of approval.

1. The following facilities may be approved as incidental to a recreational vehicle park:

- a. Administrative offices;
- b. Caretaker or watchperson residence (no more than one);
- c. Clubhouses;

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- d. Gatehouses;
 - e. Grounds maintenance facilities;
 - f. Laundry facilities;
 - g. Marine improvements;
 - h. Recreational vehicle washing facilities;
 - i. Restrooms and community showers; and
 - j. Sanitary dump stations.
2. The following amenities are permitted as amenities incidental to the recreational vehicle park even though they are typically land use classifications identified as individual "uses" within other zoning districts.
- a. Bar or Cocktail Lounge;
 - b. Business Office - Groups I and II;
 - c. Cultural facilities;
 - d. Food stores - Group I;
 - e. Personal services - Groups I - II;
 - f. Recreation, commercial - Groups I - II;
 - g. Rental establishments - Group I;
 - h. Restaurants - Groups I - IV, with no drive-thru facilities; and
 - i. Specialty retail shops - Groups I - III.
3. For recreational vehicle parks with no frontage on any type of arterial or collector street, food stores, personal services, and restaurants shall be limited as follows:
- a. Vehicular ingress/egress for parking lots supporting an amenity shall not be directly accessible from any public street, but shall only be accessible from a road within the park;
 - b. No signs shall be visible from outside the recreational vehicle park; and

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- 5229 c. The cumulative gross leasable floor area occupied by food stores, personal services, and
5230 restaurants shall not exceed 3% of the net area of the recreational vehicle park. For
5231 purposes of this section, the **NET AREA** shall mean the area of the recreational vehicle park
5232 minus extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If
5233 an extant wetland or water area is expanded or contracted, the net area shall be based on
5234 the resultant wetland and water areas. Food stores shall not occupy more than 25,000
5235 square feet of contiguous gross leasable floor area.
5236
- 5237 4. For recreational vehicle parks with frontage on any type of arterial or collector street, food
5238 stores, personal services, and restaurants shall be limited as follows:
5239
- 5240 (a) Vehicular ingress/egress for parking lots supporting food stores, personal services, and
5241 restaurants may be directly accessible from a public street. Visible evidence of the
5242 commercial character of food stores, personal services, and restaurants may be observable
5243 from a street outside the park. For food stores, personal services, and restaurants that have
5244 vehicular ingress/egress directly accessible from a public street, or present visible evidence,
5245 observable from a street outside the park, of their commercial character, no certificate of
5246 use shall be issued until a minimum of 20% of the total transient guest sites for the entire
5247 recreational vehicle park have been constructed or installed; and
5248
- 5249 (b) The cumulative gross leasable floor area of food stores, personal services, and restaurants
5250 shall not occupy more than 3% of the net area of the park. Not more than 25,000 square
5251 feet of contiguous gross leasable floor area shall be devoted to food stores.
5252
- 5253 5. In the event that a recreational vehicle park fails to meet the minimum required number of
5254 transient guest sites as a result of removal of transient guest sites or conversion to another use,
5255 or if the offering of lodging at transient guest sites is discontinued for one year or more, any
5256 activity that had previously been approved as an amenity incidental to the recreational vehicle
5257 park use shall lose its status as an amenity and shall be treated in the same manner as a
5258 nonconforming use.
5259
- 5260 Q. Prohibitions. The following uses, activities or improvements listed below are prohibited within a
5261 recreational vehicle park:
5262
- 5263 1. Permanent residential use is prohibited, except in an approved caretaker/watchperson
5264 residence.
5265
- 5266 2. Lodging within any structure other, than an approved recreational vehicle, camping cabin, or
5267 caretaker/watchperson residence (e.g., tent, mobile home, garage, shed, agricultural building)
5268 is prohibited within a recreational vehicle park.
5269
- 5270 3. The storage of a recreational vehicle, boat, or accessory trailer during any period when the
5271 owner or lessee of the vehicle is not a registered occupant of a transient guest site is prohibited.
5272 Storage of boats and accessory trailers is prohibited on individual transient guest sites or on
5273 internal roads.
5274

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

Section. 5.12.9. Microcottage Village Development (MCVD)

Microcottage Village Developments (MCVD's) provide a location for City residents who wish to reside on lots which are much smaller than the typical Cape Coral property. This housing type encourages efficient use of land, affordability and energy conservation. Microcottage housing allows for a higher density single family development than is normally allowed. This is made possible by smaller home sizes, clustered home sites and parking and design standards. These villages shall be developed to ensure that they provide an attractive, clean option for these residents which also will not have a deleterious effect on nearby properties.

A. Minimum Area/Density. The minimum allowable area for a MCVD shall be three acres and the maximum density of microcottages shall not exceed 8.8 dwelling units per acre. The minimum lot size for individual lots shall be 5,000 square feet.

B. Buffering. <<INSERT BUFFER LANGUAGE>> Sites adjacent to single family zoning and land use shall provide a 25' buffer along said perimeter.

C. Availability of infrastructure. MCVD's shall be serviced by city utilities.

D. Clustering. A MCVD is composed of clusters of microcottages.

Minimum units per cluster: 4

Maximum units per cluster: 12

Maximum clusters per MCVD: 2

E. Common open space. Each cluster of microcottages shall have common open space and provide a sense of openness and community for residents. Open space requirements are as follows:

1. Each cluster of microcottages shall have common open space to provide a sense of openness and community for residents;
2. At least 400 square feet per microcottage of common open space is required for each cluster.

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- 5316 3. Each area of common open space shall be in one contiguous and useable piece.
5317 4. To be considered as part of the minimum open space requirement, an area of common open
5318 space must have a minimum dimension of 20 feet on all sides.
5319 5. The common open space shall be at least 3,000 square feet in area, regardless of the number of
5320 units in the cluster.
5321 6. Required common open space may be divided into no more than two separate areas per cluster.
5322 7. At least two sides of the common open area shall have microcottages along its perimeter.
5323 8. Parking areas, yard setbacks, private open space and driveways do not qualify as common open
5324 space.
- 5325 <<INSERT GRAPHIC>>
- 5326 F. Community Buildings. Community buildings are permitted in MCVDs. Community buildings shall be
5327 clearly incidental in use and size to dwelling unit and shall be no more than one story.
- 5328 G. Ownership. Community buildings, parking areas and common open space shall be owned and
5329 maintained commonly by the MCVD residents, through a condominium association, a homeowners'
5330 association, or a similar mechanism, and shall not be dedicated to the City.
- 5331 H. Microcottage Size. Microcottages shall meet the following requirements:
- 5332 1. The gross floor area of each microcottage shall not exceed 1,100 square feet.
5333 2. At least 25% of the microcottages in each cluster shall have a gross floor area less than 1,000
5334 square feet.
5335 3. Microcottage areas that do not count toward the gross floor area or footprint calculations are:
5336 a. Interior spaces with a ceiling height of six feet or less, such as in a second floor are under
5337 the slope of the roof;
5338 b. Architectural projections—such as bay windows, fireplaces or utility closets—no greater
5339 than 24 inches in depth and six feet in width;
5340 c. Attached unenclosed porches;
5341 d. Garages or carports;
- 5342 4. The footprint of each microcottage shall not exceed 850 square feet.
- 5343 <<INSERT GRAPHIC>>
- 5344 I. Unit Height. The maximum height of a microcottage shall be 25 feet.
- 5345 J. Orientation of Microcottages.
- 5346 1. Each dwelling unit shall be clustered around a common open space. Each unit shall have a
5347 primary entry and covered porch oriented to the common open space.
- 5348 2. Lots in a MCVD can abut either a street or an alley.
- 5349 3. Each unit abutting a public street (not including alleys) shall have a façade, secondary entrance,
5350 porch, bay window or other architectural enhancement oriented to the public street.

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5351 K. Microcottage Setbacks. The minimum setbacks for all structures (including Microcottages, parking
5352 structures and community buildings) in a MCVD are:

- 5353 1. Ten feet from any public right-of-way.
- 5354 2. Ten feet from any other structure.
- 5355 3. Microcottages shall be no more than 25 feet from the common open area, measured from the
5356 façade of the microcottage to the nearest delineation of the common open area.
- 5357 4. No part of any structure in the MCVD (including but not limited to Microcottages, parking
5358 structures and community buildings) shall be more than 150 feet, as measured by the shortest
5359 clear path on the ground, from fire department vehicle access.

5360 <<INSERT GRAPHIC>>

5361 L. Porches. Microcottage units shall have covered front porches. The front porch shall be oriented toward
5362 the common open space. Covered porches shall have at least 60 square feet in area.

5363 M. Garages. Garages are not required or encouraged in MCVD's.

5364 N. Parking.

5365 1. Minimum Number of Off-Street Parking Spaces:

Microcottage	Required Parking
600-800 square feet	1.00 space
800-1000 square feet	1.5 spaces
1000-1100 square feet	2.00 spaces

5366

5367 2. The MCVD shall include additional guest parking. A minimum of .5 guest parking spaces per
5368 dwelling unit, rounded up to the next whole number, shall be provided for each Microcottage
5369 cluster. Guest parking may be clustered with resident parking, however, the spaces shall
5370 include clear signage identifying them as reserved for visitors.

5371 3. Parking shall be separated from the common area and public streets by landscaping and/ or
5372 architectural screening. Solid board fencing shall not be allowed as an architectural screen.

5373 4. Parking areas shall be accessed only by a private driveway or a public alley.

5374 5. The design of garages and carports—including roof lines—shall be similar to and compatible
5375 with that of the dwelling units within the MCVD.

5376 6. Parking areas shall be limited to no more than five contiguous spaces.

5377 O. Walkways.

5378 1. A MCVD shall have sidewalks along all public streets.

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

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

Section. 5.12.10. Resort (in R1, RML, RMM).

Resorts in R1, RML, and RMM must meet the following conditions:

- A. The proposed site for a resort shall be a minimum of 25 acres,
2. Along all property lines adjacent to a residential zone, in addition to the landscaping requirements listed in Table 5.6.6.A, the development shall also provide a minimum perimeter landscaping consistent with the following:
 - a. One shrub for every three linear feet of landscaped area, planted separately or grouped to create a continuous hedge,
 - b. Shade or accent trees provided as follows:
 - (i) Except as provided below, one canopy tree for each 30 linear feet of frontage is required. Trees may be placed in any arrangement within the landscape strip provided that the spacing between tree trunks is no greater than 60 feet.
 - (ii) In locations where an adequate separation distance from overhead distribution or transmission lines, as indicated by Florida Power and Light's "Right Tree, Right Place" program, is not available, two accent trees may be substituted for any canopy tree required for each 30 linear feet of frontage.

Section 5.12.12. Roadside Food and Vegetable Stand

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

- A. Must meet the minimum building setback requirements for the district;
- B. May be in operation during daylight hours only;
- C. Shall provide a designated parking area at the side or rear of the retail roadside stand sufficient to accommodate ten vehicles;
- D. Shall be no larger than eight feet by 32 feet in dimensions, and must be structurally sound;
- E. Must meet state, county or local access requirements;
- F. May sell fruits, plants, and vegetables only;
- G. Must be built with tie downs capable of withstanding 110 mph winds; and
- H. Must contain adequate toilet facilities.

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Section 5.12.13. Accessory Parking Lots

Accessory parking lots shall meet the following requirements:

- A. The proposed parking on RML property shall be used only in connection with an existing use or structure in the C, CC, and P zoning districts.
- B. The parcel shall meet minimum dimensional requirements.
- C. The area within the RML zoning district proposed for commercial parking shall be composed of contiguous lots within that district and owned by the commercial or professional property owner or corporation served by the parking site.
- D. A minimum of 40% of the required parking spaces shall be located within a Commercial or Professional zoning district. The number of required parking spaces shall be determined by Article 6._____.
- E. The location of RML areas proposed for parking shall be immediately to the rear, or across any service alley, and within the extended side yard lot lines of the property that the parking is intended to serve.
- F. Driveways from the accessory parking in RML areas to residential streets shall not be permitted. However, commercial property fronting on Del Prado Boulevard or Santa Barbara Boulevard on one side and on a single-family residential district, as designated on the adopted Future Land Use Map, on the opposite side, shall be permitted access for the commercial property to the single-family residential street in accordance with the City of Cape Coral Engineering Design Standards.
- G. The driveway shall be included in any traffic impact study for the property to determine the driveway's impact on the local street and its intersections and if improvements are needed.
- H. Where necessary for safe and efficient turn movements, the city may restrict certain turn movements at the driveway accessing the single-family residential street.
- I. For a commercial property fronting on Del Prado Boulevard on one side and on a single-family residential district, as designated on the adopted Future Land Use Map, on the opposite side, access for the commercial property shall be permitted to the single-family residential street only on those streets which provide access to existing and planned signalized intersections on Del Prado Boulevard.
- J. The parking area shall be classified as part of the entire non-residential building site.
- K. A landscape plan for the commercial parking area proposed in an R-3 district shall be submitted with the application for a special exception use. Landscape plans shall be drawn to scale, including dimensions and distances, and shall clearly delineate.

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1. Existing and proposed parking spaces, or other vehicular use areas, access aisles, driveways, and ingress and egress points;
2. The location and floor area of existing building to be served;
3. The source of water supply for plantings and materials to be installed or, if existing, to be used in accordance with the requirements hereof.
4. All parking areas shall be landscaped in accordance with the requirements of Article V, [§ 5.2](#), Landscaping.
5. There shall be a minimum of seven feet of green area in side setbacks and ten feet of green area in setbacks from street lot lines which face residential areas.
6. There shall be a continuous undulating 18 inch to three feet high by five feet deep berm of earth extending along the property facing streets.
- I. Lighting. If any parking areas are artificially lighted, they shall be so designed and arranged that lighting is primarily directed on-site. Such areas shall not be lighted at any time other than during the same hours that the use to which the parking is appurtenant is open for business, except for necessary security lighting.

Section. 5.12.14. Guest houses.

- A. Detached structures serving as a guest house shall comply with the following:
 1. May not exceed one story.
 2. Maximum building height shall not exceed 14 ft.
 3. May not exceed 30% of the area of the primary structure or 800 square feet, whichever is less.
- B. A guest house is not a dwelling unit to be rented, it provides only guest accommodations and shall meet the following requirements:
 1. A guesthouse may not contain more than two bedrooms.
 2. A guesthouse may not contain a kitchen or the electrical or gas connections to install a stove or oven.
 3. An additional parking space must be provided for a guesthouse.

Section. 5.12.15. Accessory Dwelling Units (ADUs).

- A. Accessory Dwelling Units (ADUs). All ADUs shall comply with the following:

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- 5514 1. An ADU may be within a single-family detached dwelling or a detached accessory building on the
5515 same lot as a principal dwelling.
5516
- 5517 2. The accessory dwelling unit must have a bathroom and shall share the same sewage disposal and
5518 water supply systems as the principal dwelling unit unless separate sewer and water connections
5519 are required by the City of Cape Coral.
5520
- 5521 3. A minimum of one additional off-street parking space shall be provided. The additional space shall
5522 be on the same lot as the principal dwelling unit.
5523
- 5524 4. No new access points or driveways shall be created or installed for access to the ADU.
5525
- 5526 5. The accessory dwelling may contain no more than a living area, one bedroom, one bath, and a
5527 kitchen.
5528
- 5529 6. The owner of the property shall live in the principal dwelling or the ADU.
5530
- 5531 B. ADUs within a single-family dwelling shall comply with the following:
5532
- 5533 1. There shall only be one entrance to the front of the house. Separate entrances to an ADU are
5534 permitted at the side or the rear of the principal dwelling unit.
5535
- 5536 2. If the ADU and the principal residence are on the same floor or story, the ADU shall be limited to
5537 30 percent of the total living area of the principal dwelling or 800 square feet, whichever is less.
5538 If the ADU is on a single floor or story and there is no increase in the size of the house, the entire
5539 floor or story may be used for the ADU.
5540
- 5541 C. Detached structures serving as an ADU shall comply with the following:
5542
- 5543 1. May not exceed one story.
5544
- 5545 2. Maximum building height shall not exceed 14 ft.
5546
- 5547 3. May not exceed 30 percent of the area of the primary structure or 800 square feet, whichever is
5548 less.
5549
- 5550 **Section. 5.12.16. Solar Arrays.**
5551
- 5552 A. Solar arrays as a primary use. Also known as solar farms or centralized facilities where solar power is
5553 generated for off-site use.
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- 5555 1. These facilities may only be permitted in the Agriculture, Institutional, or Industrial zoning
5556 districts or land considered a brownfield site with limited redevelopment potential.
5557
- 5558 2. Facilities may only be permitted on lots over one acre in size.
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3. Must maintain appropriate security fencing and signs for protection.
4. Facilities shall be effectively screened with a fence, landscape material, or a combination thereof, where visible from an abutting property or right-of-way as determined by the Community Development Director.
 - a. The structures may be screened with an opaque wall or fence, up to the height allowed in that zoning district.
 - b. Alternatively, the structures may be screened with shrubs that meet the following requirements:
 - i. A row of shrubs shall be planted along all sides of the facility for which screening is required.
 - ii. All shrubs required for screening shall be a minimum of 32 inches in height and be in at least a seven-gallon container size at the time of planting. All shrubs shall be planted at a spacing of three feet apart as measured on center.
 - iii. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be maintained in good condition as long as the structures requiring screening remain.
 - iv. An adequate combination of the two screening options may be permitted.

Chapter 13. - CONDITIONAL USES

Section. 5.13.1. Purpose and applicability.

A. Purpose and Intent

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

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

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

A.

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Section. 5.13.2. Brewpubs.

Brewpubs are subject to the following conditions:

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

Section. 5.13.3. Attached residential, three-units or more single-family attached.

In RML, CC, NC, MX, MXB, and SC zoning districts an attached residential structure of three-units or more must meet the following conditions:

- A. The number of linearly attached units must be between three and nine ;
- B. Landscaping shall be provided at a rate of two trees and six shrubs per 2,500 square feet of lot, rounding up to the next full number.
- C. Attached residential developments shall incorporate three of the following design elements into each dwelling unit:
 1. Dwelling entry as the primary façade feature;
 2. Garage door recessed from the front façade, a preferred minimum of four feet;
 3. Horizontal eaves broken up with gables, projection, and articulation;
 4. Projecting eaves and gables, related to building massing;
 5. Building massing and roof form which articulate individual unit definition;

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6. Offset of four feet where two garage doors are adjacent to each other; or
7. Projections and decorative elements, such as trellises, for visual interest.

Section. 5.13.4. Multi-family dwellings

- A. Multi-family units in RML, CC, NC, MX, and SC require 700 square feet for a one bedroom and 200 square feet for each additional bedroom.
- B. Building Modulation and Articulation. All multi-family buildings shall provide a combination of volumetric and massing modulation and articulations to prevent the construction of 'big boxes', but rather buildings that harmonize their architectural quality in a stylistically pleasant manner. All buildings shall incorporate the following combined elements from the articulation criteria identified below.
1. A minimum of three of the following volumetric elements shall be provided:
 - a. Pitched roof forms, minimum pitch of 4/12, whose sum covers greater than 30% of the overall roof area;
 - b. Architectural roof overhangs four feet or greater in depth or cornices 12 inches or greater in height;
 - c. Arcades. Arcades may be used as a means of sheltering pedestrian areas, and where provided, shall connect to entrances;
 - d. Accent elements such as tower elements, porticos, cupolas, or domes; or
 - e. A building with frontage 90 feet or less in length shall provide the following minimum massing articulations:
 - i. A minimum of fifty percent (50%) of the cumulative frontage of each façade shall be setback a minimum of five feet from the primary façade and shall be distributed throughout the building frontage and shall not be provided as a single aggregated setback; and
 - ii. A minimum of twenty percent (20%) of each frontage of each facade shall be setback a minimum of eight feet from the primary façade.
 2. A minimum of four of the following architectural elements shall be provided:
 - a. Stoops on the ground floor and balconies on all floors above the ground floor;
 - b. Porches on the ground floor;
 - c. Pilasters, string courses, character lines, or other such means of subdividing the facade;
 - d. Structural or ornamental details clearly distinct from the primary wall surface, e.g., lintels, sills, door and window surrounds, decorative panels, etc.;

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- 5698
- 5699 e. Decorative planters or planting areas a minimum of five feet in width, integrated into the
- 5700 building design; or
- 5701
- 5702 f. Masonry in at least two contrasting tones or textures, accomplished by a change in material
- 5703 or coursing such as brick, natural stone, brick or stone veneer, glass, masonry stucco,
- 5704 decorative concrete block, decorative concrete panels, tile glazing and framing systems, split
- 5705 face or fluted concrete masonry, factory glazed concrete masonry units, or architectural pre-
- 5706 cast concrete.
- 5707

5708 **Section. 5.13.5. Auto repair or service facility.**

5709

5710 Vehicle repair shops located in a neighborhood commercial district must meet the following conditions:

5711

- 5712 A. The number of cars being kept on site, not in a garage bay, shall be limited to three.
- 5713
- 5714 B. All cars kept on site for repairs must be visually screened from the right-of-way and adjacent
- 5715 properties.
- 5716
- 5717 C. All repair work shall be performed within the garage.
- 5718
- 5719 D. No outside storage of materials or chemicals, all installation to occur within garage.
- 5720
- 5721 E. Hours of operation shall be limited from 8 a.m. to 9 p.m. when adjacent to any residential
- 5722 development.
- 5723

5724 **Section. 5.13.6. Bar/Lounge**

5725 **Bars and Lounges in the MXB must meet the following conditions:**

5726

5727 **Section. 5.13.7. Community gardens.**

5728

5729 The purpose of this Section is to promote an improved quality of life, a healthy environment, and access

5730 to healthy foods and outdoor activities for residents of the City through urban agriculture.

5731

- 5732 A. Land available for community gardens. The city may make properties available for community
- 5733 gardens throughout the City, particularly in the vicinity of multifamily districts.
- 5734
- 5735 1. The City Council, upon the recommendation of the Director of Community Development, may, by
- 5736 resolution, designate parcels of City property that may be used as Community Gardens. No other
- 5737 City property shall be used as a Community Garden.
- 5738
- 5739 2. Private property owners may provide property for gardening by others, however, the City does
- 5740 not process permits for community gardens on private properties.
- 5741
- 5742 B. Application for a community garden on City property. An individual, group, or organization wishing
- 5743 to develop a community garden may submit an application for a community garden which includes:

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- 5744
- 5745 1. A plan showing the location and specification of any fencing or shed, if desired, and any utilities
- 5746 and property lines, including an irrigation source.
- 5747
- 5748 a. One shed and fencing shall be permitted on properties designated as community gardens,
- 5749 regardless of the existence of a primary structure on that property.
- 5750
- 5751 2. A certificate of insurance demonstrating evidence of general liability insurance coverage in the
- 5752 amount of at least \$250,000.00, naming the City as an additional insured and indicating that the
- 5753 City will receive at least 30 days' notice of cancellation or material modification of the policy.
- 5754
- 5755 3. The permittee shall execute a release, waiver of liability, and indemnification agreement prior to
- 5756 the issuance of any permit.
- 5757
- 5758 C. Approval and regulation.
- 5759
- 5760 1. Approval for community gardens shall be on a first come first serve basis beginning on January 1
- 5761 of each year. The permit shall be active for a one-year period.
- 5762
- 5763 2. Each community garden group shall be responsible for maintenance of the property and any
- 5764 garden not maintained may be closed by the City.
- 5765
- 5766 **Section. 5.13.8. Drive-through, walk-up window, automated teller machine (ATM).**
- 5767
- 5768 Drive-through window, walk-up window, or an ATM must meet the following conditions:
- 5769
- 5770 A. Must be an accessory to a permitted use in the zoning district.
- 5771
- 5772 B. Stacking lanes for a drive-through operation shall have a minimum width of nine feet per lane and
- 5773 shall be of sufficient length to accommodate five vehicles, including the vehicle at the pickup window.
- 5774
- 5775 C. No drive-through shall project into any front setback or, if applicable, street side setback, further than
- 5776 the principal building. A maximum of two drive-through waiting stalls, after the pickup window, are
- 5777 permitted and shall not restrict pedestrian access to any public entrance of the building. Any portion
- 5778 of a drive-through facility, including access drives, which is between the building and required off-
- 5779 street parking shall have adequate pedestrian safeguards, including a striped pedestrian access route.
- 5780
- 5781 D. A separate and distinct on-site escape lane shall be provided to allow motorists to bypass the drive-
- 5782 through service lane(s).
- 5783
- 5784 E. Pedestrians utilizing an ATM or any walk-up window must have adequate space, outside of the right-
- 5785 of-way to complete a transaction.
- 5786
- 5787 F. ATMs and walk up windows shall not impact visibility from any drive aisle or right-of-way.
- 5788
- 5789 **Section. 5.13.9. Farmer's Market**

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- Farmer’s Markets in Inst, Public, and NC must meet the following conditions:
- A. Sales shall include fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages, and shall not include second-hand goods.
 - B. The market shall not exceed 12 hours of operation per week and shall be operated on a regular schedule and open to the public.
- Section. 5.13.10. Laboratory – Medical, Research, Testing, and Development.**
- Laboratory facilities in NC must meet the following conditions:
- A. No exterior impacts such as sound, smoke, or odor.
 - B. No outside storage of materials.
- Section. 5.13.13. Mobile food vendor.**
- Mobile food vendors may include vehicles, carts, or trailers, hereafter referred to as food trucks, may be permitted on public or private property subject to the following conditions:
- A. Mobile operations may only be conducted from 7:00 a.m. to 10:00 p.m. on weekdays and from 7:00 a.m. to 11:00 p.m. on weekends.
 - B. For purposes of these requirements, the vending area includes the space taken up by: a portable stand, vehicle, or trailer, any signs, equipment, merchandise, and any tents, tarpaulins, canopies, or awnings. Mobile vending areas shall not be in:
 - 1. Driveway aisles, no parking zones, landscaped area, loading areas, or fire lanes; mobile operations shall not impede the on-site circulation of motor vehicles.
 - 2. Food trucks shall not be in required parking spaces unless the number of spaces on the site exceeds the minimum amount required for uses on the property. The utilization of an off-street parking space for the operation of a mobile operation must not cause the site to become deficient in required off-street parking.
 - 3. Food trucks shall not operate on the public right-of-way.
 - C. Food trucks may operate on vacant, unimproved property only when approved as a special event pursuant to Section. 5.14.9. of this code.
 - D. The total space dedicated to the mobile operation and vending area shall not exceed an area of 600 square feet.

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- 5836 E. Food trucks shall be a minimum of 20 feet from the property line of an existing residential use, except
5837 that a mobile food unit may be a minimum of 10 feet from the property line if the residential use is
5838 separated by a six-foot high masonry wall.
5839
- 5840 F. Alcoholic beverage sales and use of sound amplification devices are prohibited.
5841
- 5842 G. Electric service connection to an on-site approved outlet is permitted, provided that no wiring or
5843 cables are run beyond the vending area or pose any danger to the patrons.
- 5844 H. Prior to permitting a food truck to operate on a site, the vendor must submit an application for
5845 operation and the following documents:
5846
- 5847 1. A site plan or survey indicating the following:
5848
- 5849 a. Location of the individual mobile food unit and associated vending area. Mobile operations
5850 shall be located so as to minimize the impacts on adjacent residential uses.
5851
- 5852 b. Location of improvements on the site.
5853
- 5854 c. Location of on-site parking areas,
5855
- 5856 d. Rights-of-way, internal circulation, and ingress and egress.
5857
- 5858 e. A letter from the owner of the property indicating that the mobile food vendor has permission
5859 to operate from his or her property.
5860
- 5861 I. Signs associated with the operation shall be confined to the vehicle, trailer, or cart and one ground
5862 sign within 10 feet of the vending area. The ground sign shall be in compliance with the size
5863 requirements listed Chapter 11 of this article and may not be within a right-of-way.
5864
- 5865 J. When multiple food trucks plan to be together for an event, a special event permit will be required if
5866 the event meets the thresholds listed in Section. 5.14.9. of this article.
5867
- 5868 K. Except as otherwise provided in this Code, it is unlawful to conduct mobile vending in any outdoor
5869 location without first obtaining a permit in accordance with the provisions of this Section.
5870
- 5871 L. The vendor must be able to produce for inspection: a copy of a letter or other written communication
5872 from the property owner or representative that authorizes the mobile operation and, for mobile food
5873 service operators, a copy of the applicant's mobile food dispensing license issued by the Department
5874 of Business and Professional Regulations.
5875
- 5876 M. Mobile operations at City or County parks, sports stadiums, or similar venue during events shall be
5877 exempt from the requirements of this Section but must comply with all other applicable requirements
5878 in this code.
5879
- 5880 Mobile vendors, other than food trucks, shall be permitted only in conjunction with a special event or a
5881 farmer's market.

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Section. 5.13.14. Model homes.

- A. Model homes are intended to facilitate the sale of the model design, or products similar in design to the model and is not intended to allow the full scope of real estate activities and shall be restricted primarily to the sale and marketing of the model, or products similar to the model. Model homes shall be permitted as a temporary, conditional use, not to exceed 10 years, in residential zoning districts (R1, RE, RML) or within a Planned Development.
- B. A model home must meet all of the zoning and building requirements for a residence in that zoning district as well as the following:
1. All requests for model home shall require the submission of an application for a model home and a plan which demonstrates that provisions will be made to adequately address the following:
 - a. Parking. Three off-street vehicular parking spaces, including the garage, shall be provided on the model site or on an adjacent vacant property.
 - i. On-site parking. A parking space may be provided in the garage. A handicap parking space is required and shall count as one of the three required spaces.
 - ii. Off-site parking. Adjacent vacant single-family lot(s) may be used for model home parking. A plan to provide parking on an adjacent parcel shall require ownership by the same or an affidavit of authorization from the property owner as well as a surety deposit payable to the City of Cape Coral to convert the property back to a residential or other permitted use when the structure is converted or sold. The deposit shall cover the costs associated with the conversion of the parking lot. The deposit shall be based on no less than 110% of the estimated cost by a professional engineer licensed in the State of Florida which shall be signed and sealed by the engineer, and found to be acceptable to the City. Funds and resulting interest shall be returned upon conversion of the site to a residential or other permitted use, the entire amount if the work is completed by the applicant, or the remaining funds if the City completes the work.
 - iii. A hedge row of at least 36 inches in height shall be planted and maintained around the vehicular parking area.
 - iv. The parking area, on-site or off-site, shall be a paved or pavered surface with appropriate signing and marking including handicap parking.
 - v. Treatment of stormwater runoff will be required for the first inch of runoff from the paved area associated with the parking lot area only.
 - vi. Model home parking lots require a Limited Site Development Plan approval prior to construction.
 - B. Handicapped standards shall be met throughout the home, including access per the Florida Building Code and handrail and grab bar requirements.
 - C. Garage office. For any garage being used as an office for a model home the applicant must submit the following:
 1. Plan of garage-office facility, including false walls, temporary electrical and plumbing.

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- 5928
- 5929 2. Plan showing how garage will be returned to its original use.
- 5930
- 5931 3. \$10,000.00 refundable surety to ensure that the garage is converted back to the FEMA standards
- 5932 for single-family home usage.
- 5933
- 5934 D. Sign standards as defined in Chapter 11 of this article.
- 5935
- 5936 F. Upon completion of the construction and approval of the unit as a model home, a "temporary
- 5937 certificate of occupancy" will be issued to the owner of the model home to remain open for a period
- 5938 of five years. Extensions beyond this five-year temporary certificate of occupancy may be granted for
- 5939 the structure in the event an extension is approved for the model's permit by the Director of
- 5940 Community Development. The initial approval and maximum extension will allow the use of an
- 5941 individual model home to exist for a cumulative 10 years. The decision to extend the initial permit
- 5942 shall be pursuant to the following considerations:
- 5943
- 5944 1. The number of existing model homes within the immediate area of the extension request and
- 5945 impacts of those on the neighborhood.
- 5946
- 5947 2. The adequacy of the right(s)-of-way upon which the model home fronts.
- 5948
- 5949 3. The character or makeup of the area surrounding the model home.
- 5950
- 5951 4. The potential effect of the model home on adjacent and surrounding properties.
- 5952
- 5953 5. The existence of complaints relating to that model home.
- 5954
- 5955 6. A demonstration of good cause from the applicant why the extension request is needed.
- 5956
- 5957 7. Approval as a model home shall be recorded against the title.
- 5958
- 5959 **5.13.15. Sporting Facilities, Indoor and Outdoor.**
- 5960
- 5961 Sporting Facilities, Outdoor and Indoor in the A district must be in conjunction with an agricultural use
- 5962 such as riding stadiums etc.
- 5963
- 5964 **5.13.16. Boat Sales**
- 5965
- 5966 Boat Sales in SC may only be permitted on sites with water frontage and direct access to Caloosahatchee
- 5967 River.
- 5968
- 5969 **Section 5.13.17 Home based businesses**
- 5970 Home occupations shall only be allowed as an accessory use to a single-family residential use and must
- 5971 meet the following conditions:

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- 5972 A. All home occupations operated in or from a residence shall comply with federal, state, and county
5973 rules and regulations, city license regulations specified herein and any other applicable ordinances of
5974 the City of Cape Coral.
- 5975 B. No condition shall be permitted which tends to cause or increase the fire hazard to the residence,
5976 such as storage of paints or other flammable materials in excess of normal family use.
- 5977 C. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display
5978 of materials be visible from the outside of the structure.
- 5979 D. The appearance of the structure shall in no way be altered for the conduct of the home occupation
5980 within the structure nor shall the conduct be such that the structure may be recognized as serving a
5981 non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations,
5982 audible or visible interference in any radio or television receiver off the premises, or cause fluctuations
5983 in the electric voltage line off the premises.
- 5984 E. No business operated under a fictitious name shall be issued a license to operate under this
5985 Section.
- 5986 F. Frontage and access shall be from arterial street.
- 5987 G. No driveway with ingress or egress to a local street shall be utilized.
- 5988 H. Hours of operation shall be 7:00 A.M. until 7:00 p.m.
- 5989 I. Employees and customers shall be allowed as long as adequate parking is provided on-site.
- 5990 J. No parking shall be allowed on any surrounding parcels.
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- 5992
- 5993
- 5994

5995 **Section. 5.13.18. Restaurant and Private Clubs, Social Clubs**

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5997 All restaurants, private clubs, and social clubs in INST must be an accessory to a public or institutional use.

5998

5999 **Section. 5.13.19. Resort**

6000

6001 Resorts in R1, RML, and RMM must meet the following conditions:

6002

- 6003 B. The proposed site for a resort shall be a minimum of 25 acres,
- 6004
- 6005 3. Along all property lines adjacent to a residential zone, in addition to the landscaping requirements
6006 listed in Table 5.6.6.A, the development shall also provide a minimum perimeter landscaping
6007 consistent with the following:
- 6008
- 6009 a. One shrub for every three linear feet of landscaped area, planted separately or grouped to
6010 create a continuous hedge.
- 6011
- 6012 b. Shade or accent trees provided as follows:
- 6013 (i) Except as provided below, one canopy tree for each 30 linear feet of frontage is required.
6014 Trees may be placed in any arrangement within the landscape strip provided that the
6015 spacing between tree trunks is no greater than 60 feet.
- 6016 (ii) In locations where an adequate separation distance from overhead distribution or
6017 transmission lines, as indicated by Florida Power and Light's "Right Tree, Right Place"

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program, is not available, two accent trees may be substituted for any canopy tree required for each 30 linear feet of frontage.

Section. 5.13.20. Self-Storage Facility.

Self-storage facilities in **Industrial and NC** must meet the following conditions:

- A. The facility must be designed so as to screen the interior of the development. The screening may be created with a wall or the exterior of the building may function as the screening feature.
- B. **The structure shall not be constructed of metal, unfinished wood, or any material determined to be inadequate by the building official.**
- C. Perimeter plantings shall be installed around all portions of the buildings other than access locations. These perimeter plantings shall consist of perennial plant material planted no less than three feet on center and reaching a height of three feet within the first year.

Section. 5.13.22. Vehicle fueling stations.

Vehicle fueling stations in NC must meet the following conditions:

- A. General:
 - 1. All buildings, including pump islands, shall have a 25' setback from all property lines.
 - 2. In no case shall a lot have less than 100 feet of street frontage.
 - 3. Underground storage is required for all receptacles for combustible materials in excess of 55 gallons. Such storage shall comply with all building and fire codes and Environmental Protection Agency standards.
 - 4. The accumulation and storage of waste petroleum products is forbidden, unless in compliance with Environmental Protection Agency standards.
 - 5. Primary services and sales permissible include fueling stations and electric charging stations, and include only the following accessory uses:
 - a. Car wash services;
 - b. Sale of convenience goods; and
 - c. Accessory fast food services without a drive-through.
 - 6. Uses permissible at a gas station do not include body work, straightening of body parts, painting, welding (other than minor repairs), or other work involving noise, glare, fumes, smoke, or other

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characteristics to an extent greater than normally found in vehicle fueling stations. A vehicle fueling station is not a body shop.

7. Outside materials storage is not permissible.

8. Lighting at a gas station shall be designed and installed so as to prevent glare or excessive light above 0.1 foot-candles on adjacent property. No source of illumination shall be allowed if such source of illumination, unshielded, would be visible from a residentially-zoned district to the extent that it interferes with the residential use of that area.

9. The minimum size parcel shall be 1.25 acres.

10. An eight-foot tall opaque wall constructed of concrete block coated with stucco, textured concrete block, stone, brick, or concrete (formed, decorative or precast) shall be constructed between any residential properties and a gas station. The wall shall be constructed within the gas station property, seven and one-half feet from the property line shared by the gas station and any adjacent residential property. The wall shall not be within a sight triangle.

a. The residential side of the wall shall be landscaped with shrubs (seven-gallon and 32 inches at planting) which shall be maintained at a mature height between six and eight feet and 80 percent opacity.

11. Stormwater runoff from the fueling and storage tank loading areas shall be directed to an oil/gas/water separator prior to entering the surface water treatment area for the project.

B. Appearance:

1. All structures on the site shall have a unified architectural theme.

2. Gas station roofs shall be pitched a minimum of 4:12.

3. A minimum of 12-inch overhangs shall be provided

4. Roof and exterior wall surfaces, with the exception of glass areas, shall be nonreflective. Any glass coating shall not reflect outward.

5. The use of flat steel or metal panels for the exterior walls of the gas station shall be prohibited.

6. The rear and sides of buildings shall be finished with material that in texture and color resembles the front of the building.

7. Glass windows and doors must make up at least 25 percent of the front elevation and 15 percent of the side elevations at eye level.

8. Any canopy shall be restricted to a clearance of 14 feet in height and shall be consistent with the primary structure design. The canopy columns and roof shall be architecturally finished to match the building.

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6111 9. The commercial advertising on the canopy shall be limited to 10 percent of the exterior area of
6112 the canopy and backlighting shall not be permitted on the canopy.
6113
6114 10. Perimeter walls, if utilized, shall be architecturally compatible with the principal structure.
6115
6116 C. Landscaping:
6117
6118 1. Front yard buffer. An enhanced front yard buffer shall be required for automobile service
6119 stations to limit the visual impact of the use. The following requirements shall be utilized:
6120
6121 2. Area to be landscaped. A strip of land at least 10 feet in depth, abutting the right-of-way and
6122 extending the length of the property except the entrance and exit drives, shall be landscaped.
6123
6124 3. Minimum tree requirements. Palm clusters on the ends of landscape buffers parallel to the gas
6125 pump canopy. The palm clusters shall consist of three palms with a minimum of 13 feet of gray
6126 wood, at planting. One cluster shall be provided for every 30 feet of road frontage;
6127
6128 4. Landscape accents. The use of landscape accents, such as planters and window boxes, shall be
6129 incorporated into the overall landscape design of the building and the site;
6130
6131 5. Other materials. The remainder of the required landscaped area shall be landscaped with grass,
6132 ground cover, or other approved landscaping treatment.
6133
6134 D. Vehicle Fueling Stations in the SC zoning district shall only be allowed with frontage along Del Prado
6135 Boulevard.
6136
6137 **Section. 5.13.23. Outdoor Screened Storage**
6138
6139 Outdoor Screened Storage must meet the following regulations:
6140
6141 A. Screening must consist of opaque fence or wall
6142 B. Minimum height of 6 feet
6143 C. Height of fence shall be tall enough to screen items being stored.
6144 D. Landscaping shall be on the outside of fence or wall.
6145 E. Screened area must be in conjunction with principal use.
6146 F. Area used for storage must be an improved impervious surface.
6147 G. No vehicular access shall be allowed from a local street.
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Item Number:	6.A.
Meeting Date:	3/7/2018
Item Type:	DATE AND TIME OF NEXT MEETING

**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL



TITLE:

Wednesday, April 4, 2018, at 9:00 a.m. in Council Chambers, Workshop to follow

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: