

Cape Coral Planning & Zoning Commission Workshop

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



AGENDA

Wednesday, January 24, 2018
9:00 AM
Council Chambers

1. CALL TO ORDER

A. Chair Read

2. MOMENT OF SILENCE

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL

A. Bennie, Marmo, Peterson, Ranfranz, Read, Scheider, Slapper, and Alternate Robinson

5. BUSINESS

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

A. Workshop LDC
Draft Articles for LDC Update

7. DATE AND TIME OF NEXT MEETING

- A. Regular Planning and Zoning meeting on Wednesday, February 7, 2018 at 9:00 a.m. in Council Chambers
- B. Workshop on Wednesday, February 7, 2018 at 9:00 a.m. in Council Chambers

8. ADJOURNMENT

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

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

Item Number: 1.A.
Meeting Date: 1/24/2018
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:	1/24/2018
Item Type:	ROLL CALL

AGENDA REQUEST FORM
CITY OF CAPE CORAL



TITLE:

Bennie, Marmo, Peterson, Ranfranz, Read, Scheider, Slapper, and Alternate Robinson

REQUESTED ACTION:

STRATEGIC PLAN INFO:

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

WHAT THE ORDINANCE ACCOMPLISHES:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION:

Item Number: 6.A.
Meeting Date: 1/24/2018
Item Type: PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY PUBLIC HEARING

**AGENDA
REQUEST
FORM**
CITY OF CAPE
CORAL



TITLE:

Workshop LDC

REQUESTED ACTION:

Approve or Deny

STRATEGIC PLAN INFO:

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:

Draft Articles for LDC Update

LEGAL REVIEW:

EXHIBITS:

See attached Drafts

PREPARED BY:

Kristin Division- Planning Department- Community
Kantarze Development

SOURCE OF ADDITIONAL INFORMATION:

Wyatt Daltry, Planning Team Coordinator, 239-573-3160, wdaltry@capecoral.net

ATTACHMENTS:

Description	Type
Article 1- General Provisions	Backup Material

▣ Article 2- Decision Making and Administrative Bodies	Backup Material
▣ Article 3- Development Review	Backup Material
▣ Article 6- Parking	Backup Material
▣ Article 7- Signs	Backup Material
▣ Article 8- Nonconformities	Backup Material
▣ Article 9- Floodplain Management	Backup Material
▣ Article 10- Subdivisions	Backup Material
▣ Article 11- Definitions	Backup Material
▣ Article 12- Building Code and Engineering Design Standards	Backup Material

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

Section 1.1. Title.

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

Section 1.2. Authority.

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

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

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

- A. Continue to foster community pride and a sense of stewardship in the City;
- B. Preserve and implement the comprehensive plan;
- C. Ensure the application and administration of these regulations continues to improve the overall quality of life and promote development of the City;
- D. Establish zoning districts as a means of achieving unified civic design and proper relationship between the uses of land by regulating the location and use of buildings and other structures;
- E. To minimize and reduce conflicts among various land uses through the application of regulations designed to assure harmonious relationships among land uses;
- F. To ensure safe and convenient traffic circulation, adequate utilities, recreation areas, and the development of economically stable and healthful neighborhoods;
- G. To prevent periodic and seasonal flooding by providing flood control and drainage facilities;
- H. To discourage haphazard, premature, uneconomical, or scattered land development; and
- I. To ensure that the citizens and taxpayers of the city will not have to bear the costs resulting from haphazard land development or the lack of adequate and necessary physical improvements incidental to land development.

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Section 1.4. Jurisdiction and applicability.

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

Section 1.5. Compliance with regulations.

- A. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformance with:
1. The applicable zoning district regulations;
 2. The bulk, area, and dimensional regulations of the zoning district;
 3. The off-street parking and loading regulations for the use in the building in question;
 4. The floor area regulations of the zoning district;
 5. The established flood criteria, as indicated on the most current edition of the federal flood insurance rate maps and in Article 8 applicable to the development site
 6. All other applicable laws, rules, and regulations.
- B. No building shall be erected or enlarged after the effective date of these regulations, which reduces any level of service standard established in the City of Cape Coral adopted comprehensive plan.
- ~~C. Nothing in this article shall be construed or applied to annul the vested rights of a property owner to complete development where the property owner demonstrates each of the following:~~
- ~~1. A governmental act of development approval was obtained prior to the effective date of this article or prior to the effective date of an amendment to this article;~~
 - ~~2. Upon which the property owner has detrimentally relied, in good faith, by making substantial expenditures of money, time, or labor; and~~
 - ~~3. That it would be highly inequitable to deny the property owner the right to complete the development.~~

Section 1.6. Violations, enforcement, and penalties.

The procedures for enforcement and penalties for violations of this Code are set forth in Chapter 2, Article 5, Divisions 3 and 4 of the City of Cape Coral Code of Ordinances. The provisions of this Code are

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supplemental to any other procedures and remedies available to the City of Cape Coral. Nothing contained in this Code prohibits the City of Cape Coral from enforcing its codes or ordinances by other Code Enforcement provisions of the City of Cape Coral Code of Ordinances or other applicable law.

Section 1.7. Buildings under construction.

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

Section 1.8. Outstanding permits.

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

Section 1.9. Time limitation of approvals.

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

Section 1.10. Annexed lands.

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

Section 1.11. Comprehensive Plan and Future Land Use Map.

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

Section 1.12. Official Zoning Map.

- A. The Official Zoning Map is established and incorporated into these regulations by this reference. The Official Zoning Map shows the boundaries of all Zoning Districts as adopted by the City Council pursuant to the procedures of these regulations.
- B. The Official Zoning Map shall be the official record of zoning status of land within the city. The Official Zoning District Map shall be maintained by the city electronically. The city is divided into districts, or zones, as provided by this ordinance. The electronic format of the map will reside within the city Geographic Information System (GIS) as the zoning layer and shall be maintained by the Department of Community Development - Planning Division. The map will be updated on a continuous basis

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following approval of zoning changes by City Council. The electronic format of the map will be viewable via the Internet and paper copies can be produced on demand.

- C. Pursuant to Laws of Fla. Ch. 78-540, § 8, the city shall exercise extraterritorial zoning powers within an area extending 600 feet into the tidal waters adjacent to the corporate city limits. All such areas shall have the same zoning as the adjacent uplands.
- D. The Official Zoning Map, as amended from time to time, shall be kept on file and made available for public reference in the Office of the City Clerk and the Community Development Department. Amendments to zoning on the Official Zoning District Map shall be consistent with the adopted Cape Coral Comprehensive Plan, including the Future Land Use Map and its accompanying text. Amendments shall be made on or after the effective date of such zoning change. The Director of the Department of Community Development shall ensure that amended zoning district boundaries are accurately placed on the zoning map. The City Clerk shall keep records on file which identify the official action by which a map amendment was made, the date of such action, the land area affected and the date of posting.
- E. Should the map or any portion thereof become damaged, destroyed, or lost the City Council is authorized, by resolution, to replace the map or damaged portion and the new map shall supersede the one replaced. The new map may correct drafting or other errors, but no replacement shall have the effect of changing the official zoning status of property unless the prior map has been totally destroyed. The City Clerk shall preserve any records relating to its adoption and amendment.
- F. Unauthorized changes. Substantial changes of the nature affecting the zoning of property is strictly prohibited and unlawful, unless in conformity with the requirements and procedures of this ordinance or applicable law.

Section 1.13. Transitional rules.

- A. Existing unlawful uses, lots, and structures. A structure, lot, or use not lawfully existing at the time of the adoption of these regulations is lawful only if it conforms with all of the requirements of these regulations. All other violations of prior regulations of the City as of the effective date of this ordinance shall continue to be violations and shall not be considered to be legal nonconformities under this code unless such violation(s) becomes lawful by adoption of this code.
- B. Existing approved uses. An existing use which is lawful on the date of adoption of these regulations, whether as a "permitted use", or a "special exception use" in the zoning district in which it is located, shall not be deemed nonconforming solely because the procedure for approval has changed through the adoption of these regulations. ~~If the existing use is nonconforming under the prior Code or these regulations, then such use shall continue to be a nonconforming use. Uses which were approved as a Special Exception use will continue to be a Special Exception.~~
- C. ~~Violations of prior regulations. All violations of prior regulations of the City as of the effective date of this ordinance shall continue to be violations and shall not be considered to be legal nonconformities under this code unless such violation(s) becomes lawful in accordance with subsection A, above. The~~

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~~City shall have the same authority to secure civil remedies for violations of such regulations to the same extent that it may secure civil remedies for violations of this ordinance.~~

- ~~D.~~ **C.** Previously granted variances. Unless becoming conforming pursuant to Subsection A, above, Aall variances granted under any prior edition of the Land Development Code and which are still in effect upon adoption of these regulations shall remain in full force and effect, including any conditions attached thereto, and the owner may proceed to develop the property in accordance with the approved variance.
- ~~E.~~ Previously approved special exceptions. All special exceptions approved prior to the adoption of these regulations, and any conditions attached thereto, shall remain in full force and effect, and the owner may proceed to develop the property in accordance with the previous approval. However, if construction has not commenced before the approval expires or if the approval is abandoned, the provisions of these regulations shall govern.
- ~~F.~~ Prior zoning districts. Unless provided otherwise on the Official Zoning Map, upon adoption of these regulations, all existing zoning classifications shall be reclassified with one of the zoning classifications set forth in Article 4, Zoning Districts, as follows:

Archived Zoning Districts (LUDR)	New Zoning Districts (LDC)
	Residential Districts
RE, Residential Estate	RE, Residential Estate
R-1A, Single-Family R-1B, Single-Family RX, Residential Receiving	R-1, Single-Family Residential
R-3, Multi-family Residential	RML, Residential Multi-Family Low RMM, Residential Multi-Family Medium
RD, Residential Development < 3 acres RD, Residential Development > 3 acres	RML, Residential Multi-Family Low RMM, Residential Multi-Family Medium
N/A	SML, Small Lot Residential
	Nonresidential Districts
Pedestrian Commercial, C-1	C, Commercial
Pedestrian Commercial, C-1 Thoroughfare Commercial, C-3 Professional Office, P-2 Marketplace-Residential District, MR High Intensity Commercial-Industrial, HICI Village District, VILL	NC, Neighborhood Commercial
Professional Office, P-1	P, Professional Office
Corridor District, CORR	Commercial Corridor, CORR

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Commerce Park Overlay, CPO	N/A Removed
Industrial, I	I, Industrial
Agricultural, A	A, Agricultural
Institutional, INST	IN, Institutional
Public, P	
Places of Worship, W	Various districts
Preservation,	PV, Preservation
PRES (Future Land Use)	
	Mixed Use Districts
South Cape Downtown District, SC	SC, South Cape
	MX, Mixed Use
	MXB, Mixed Use Bimini
	MXS, Mixed Use Seven Islands
Various (Approved PDPs)	PUD, Planned Unit Development

203
204 **G.** Prior approved PDP projects. All planned development projects (PDPs) approved prior to the adoption
205 of these regulations, and any approved site plan and conditions attached thereto, shall remain in full
206 force and effect. All such approved PDPs shall hereafter be deemed a permitted and approved
207 Planned Unit Development under this code, and the owner may proceed to develop the property in
208 accordance with the previous approval. All previously approved PDP sites are classified in the PUD
209 zoning district under this Code. If substantial construction pursuant to the PDP approval has not
210 commenced before the approval expires or if the approval is abandoned, the provisions of these
211 regulations shall govern.

212
213 **Section 1.14. General rules of construction.**

214
215 For the purposes of these regulations, the following rules of construction apply:

- 216
217 A. These regulations shall be deemed the minimum requirements for the promotion of the health,
218 safety, order, convenience, and general welfare of the community.
219
220 B. These regulations shall be construed to achieve the purposes and intent for which they are adopted.
221
222 C. Nothing in these regulations is intended to repeal any easement, covenant, deed restriction, or other
223 private agreement; however, where these regulations are more restrictive or impose higher standards
224 or requirements than such easement, covenant, deed restriction, or other private agreement, these
225 regulations shall govern.
226
227 D. In the event of a conflict:
228
229 1. Between the text of these regulations and any caption, figure, illustration, table, or map, the text
230 of these regulations shall control;
231
232 2. Between a chart and an illustration, the chart shall control. All illustrations included in these
233 regulations are for illustrative purposes only;
234

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3. When limitations, restrictions, or standards apply to an individual lot, use, or structure the more restrictive provisions shall apply; and
4. Between these regulations and any federal, state, or county law or regulation which pre-empts local regulation, the federal, state, or county law or regulation shall apply.
- E. Words and phrases shall be construed according to the rules of grammar and according to the common and approved usage. Technical words and terms that are used and that may have a particular meaning based on law shall be defined according to that meaning.
- F. The terms "Ordinance," "Code," "Law," "Statute," "Title," and "Act" are understood to include the term "as amended" ~~where appropriate~~, unless the context clearly indicates otherwise. References to technical manuals, resource materials, code references, the comprehensive plan, and similar documents are understood to include the term "as amended," ~~where appropriate~~, unless the context clearly indicates otherwise.
- G. The words "shall," "must," and "will" are mandatory in nature, implying an obligation or duty to comply with the particular provision.
- H. The word "or" is alternative in nature.
- I. The word "may" is permissive in nature.
- J. The word "including" shall be construed to include the phrase "but not limited to."
- K. Words used in the present tense include the future tense.
- L. The singular number includes the plural number and the plural, the singular.
- M. Words utilizing the masculine gender include the feminine gender and use of the feminine gender includes the masculine.
- N. The words "used" and "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- O. The word "herein" means "these regulations."
- P. The words "building" or "structure" includes any of its parts.
- Q. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- R. The word "owner" includes his or her agents or authorized representatives unless the context clearly indicates otherwise.

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- S. Any act authorized by these regulations to be carried out by a specific official or agency of the City is authorized to be carried out by a designee of such official or agency, unless the context clearly indicates otherwise.
- T. The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday, or a legal holiday the timeframe shall be extended to the next working day.

Section 1.15. Measurements.

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

When there is a distance requirement between a structure or building on the same development site, the distance shall be measured from the exterior of the buildings or structures, using a straight-line measurement from the closest points between the structures being measured.
 3. When a portion of a parcel or development site lies within a certain distance of a zoning district or development and the LDC imposes requirements or regulations on a development or parcel within that distance, the requirements and regulations shall be applicable to the entire parcel or development site and not just to the portion within the specified distance.
- C. Floor area, gross. The sum of the floor areas of all floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, excluding covered parking, loading areas, or parking garages. When an entire level of a building or structure is below ground as measured from floor to floor or ceiling slab to ceiling slab, the floor area of this level shall be excluded from the calculation of gross floor area. Unless otherwise specified, gross floor area for food service establishments shall also include any outdoor or patio floor area on the property used or designed for customer service.

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- 325 D. Floor area, net. The total floor area of all floors of a building shall be measured by excluding from the
326 gross floor area stairwells and elevator shafts, equipment rooms, interior vehicular parking, loading,
327 and all floors below the first or ground floor, except when such areas are used or intended to be used
328 for human habitation or service to the public.
329
- 330 E. Floor area ratio (FAR). The floor area ratio is measured by the net floor area of all buildings or
331 structures on a lot, parcel, or site divided by the total lot, parcel, or site area.
332
- 333 F. Fractional measurements.
334
- 335 1. When units or measurements result in a requirement of a fraction, any such fraction equal to or
336 greater than exactly fifty percent (50%) shall require the full requirement, unless otherwise
337 provided for in these regulations.
338
- 339 2. Density fractional measurements. When calculating density, any fraction of a unit shall be
340 rounded down to the nearest whole number, unless otherwise provided for in these regulations
341 the LDC.
342
- 343 G. Grade.
344
- 345 1. When used to measure habitable structures, grade shall be the highest elevation greater of:
346 a. The natural elevation of the ground when compared to abutting properties. Natural elevation
347 of the ground when compared to abutting properties, shall be derived by selecting a minimum
348 of two (2) elevation points on each adjoining property line and calculating the average of all
349 the selected elevation points. This calculation will determine the reference plane for
350 calculating the height of habitable structures only;
351 b. The base flood elevation requirement for the lowest floor as shown on the flood insurance
352 rate map published by the Federal Emergency Management Agency (FEMA);
353 c. Eighteen (18) inches above the FEMA base floor rd elevation requirement for the bottom of
354 the Lowest Horizontal Structural Member (LHSM) of the lowest floor; or
355 d. Eighteen (18) inches above the State of Florida, Department of Environmental Protection
356 minimum requirement for the bottom of the LHSM of the lowest floor.
357 For purposes of the definition of grade, the term floor shall be defined as the top of the lowest
358 inside surface of an enclosed area in a building, including the basement. For example, the top
359 of the slab in a concrete slab construction or the top of wood flooring in wood frame
360 construction. The term does not include an unfurnished or flood resistant enclosure, usable
361 solely for parking of vehicles, building access, or storage in an area other than a basement
362 area.
363
- 364 2. When used to measure non-habitable accessory structures, grade shall be the finished ground
365 surface at the base of the accessory structure being measured. If a retaining wall elevates the
366 non-habitable accessory structure, grade shall be the finished ground surface at the base of the
367 retaining wall.
368
- 369 ~~H. Gross acre. The unit of land area which comprises an acre, including that portion of land within public~~
370 ~~ownership. Public land area shall include adjoining public rights-of-way and public waterways.~~

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

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

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

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

~~**M. Net acre.** The unit of land area which comprises an acre, less that portion within public ownership. Public land area shall include public rights of way, public waterways, and other publicly dedicated areas. Net acre is used for the purpose of calculating the maximum density permitted on a parcel by these regulations.~~

L. Setback. A setback is the minimum horizontal distance between a structure and a property line. Setbacks shall extend and be measured perpendicular and inward from the respective property lines. ~~When a setback is required along a property line that abuts a waterway, it shall be measured from the face of the seawall in contact with the waterway (wet face), or from the edge of the waterway where no seawall exists.~~

Section 1.16. Interpretation of zoning district boundaries.

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

- A. Centerlines. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
- B. Lot, section, and tract lines. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- C. Political boundaries. Boundaries indicated as approximately following City limits shall be construed as following City limits;
- D. Shorelines. Boundaries indicated as following shorelines shall be construed to follow such shorelines. In the event of a change in the shoreline, the zoning district boundary shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;

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- 417
- 418 E. Vacations. Whenever any street, alley, or other public way is vacated by official action of the City
- 419 Council, the zoning district of the property abutting each side of the street, alley, or public way shall
- 420 be automatically extended to the center of such vacation and all area included within the vacation
- 421 shall thereafter be subject to all regulations of the extended districts;
- 422
- 423 F. Filled lands. Where land is built-up by fill upon areas formerly submerged under water, the district
- 424 regulations applying to the land immediately adjoining such built-up land shall be automatically
- 425 extended thereto;
- 426
- 427 G. Parallel lines. Boundaries indicated as parallel to or extensions of features indicated in subsections A
- 428 through F of this section shall be so construed. Distances not specifically indicated on the official
- 429 zoning map shall be determined by the scale of the map;
- 430
- 431 ~~H~~. Bisecting lines. Where district boundary lines approximately bisect blocks, the boundaries are the
- 432 median line of such blocks, between the centerlines of boundary streets;
- 433
- 434 ~~I~~. Uncertainties. Where physical or cultural features existing on the ground are at variance with those
- 435 shown on the official zoning map or if any other uncertainty exists, the Director of Community
- 436 Development shall interpret the intent of the official zoning map as to the location of district
- 437 boundaries; and
- 438
- 439 ~~J~~. Excluded areas. Where land or water areas have been inadvertently excluded from a zoning district
- 440 classification in any manner, such areas shall be classified in conformance with the most restrictive
- 441 zoning district which abuts the excluded area until or unless changed pursuant to amendment
- 442 procedures set forth in Article 3, Sec. 3.x.x.
- 443

444 **Section 1.17. Severability.**

445

- 446 A. It is the intent of the City Council of the City of Cape Coral that the articles, chapters, sections,
- 447 subsections, paragraphs, sub-paragraphs, sentences, clauses, and phrases of this Code are severable,
- 448 and if any are declared invalid or unconstitutional by the valid judgment or decree of a court of
- 449 competent jurisdiction, such invalidity or unconstitutionality shall not affect the balance of these
- 450 regulations.
- 451
- 452 B. It is the further intent of the City Council of the City of Cape Coral that all property within the City be
- 453 governed by these regulations. Therefore, if the zoning district of a parcel is declared invalid or
- 454 unconstitutional, either on its face or as-applied, it is the intent of the City Council that the zoning
- 455 district applied to the parcel shall be the next more restrictive zoning district that is consistent with
- 456 the future land use district within which the parcel is located.
- 457

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ARTICLE 2 – DECISION MAKING AND ADMINISTRATIVE BODIES

CHAPTER 1. PLANNING AND ZONING COMMISSION

Section 1.1.1. Powers and duties.

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

Section 2.2.2. Membership; vacancy; compensation.

- A. Membership. The Commission shall consist of seven members. All members shall be residents of the City and will be appointed by a majority vote of the City Council. The term of office for each member shall be three years. Terms of office shall commence on the first day of March of the year in which appointed. In addition to the seven members, two alternate members shall be appointed by a majority vote of the City Council to serve as alternates for the term of one year. Alternate members shall be residents of the City. Alternate members shall substitute for absent members on a rotating basis. When substituting for an absent member, an alternate member may vote and participate in all discussions of the Commission in the same manner and to the same extent as the other members of the Commission. When not substituting for an absent member(s), alternate members shall not vote on any matter, but may participate in all discussions in the same manner and to the same extent as the other members. Alternate members shall have the same attendance requirements as the other members of the Commission.. Board members and alternate members shall be subject to the forfeiture of office provisions of Section 2.58 of the Cape Coral Code of Ordinances. Whenever a vacancy occurs on the Commission, the city shall fill the vacancy for the remainder of the term as soon as practicable after the vacancy occurs.
- B. Vacancies.
1. If a vacancy occurs on the Commission as the result of the resignation, death, or removal of a member, the senior alternate member shall temporarily fill such vacancy without action by the City Council, until the City Council appoints a successor regular member. In the event both

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alternates have served for the same continuous period of time then the alternate who is next scheduled to substitute for an absent regular member according to the rotation schedule shall temporarily fill the vacancy until the City Council appoints a successor regular member. In the event that the alternate member dies, resigns, is removed, or becomes a member, the City Council shall promptly appoint a qualified person to the unexpired term of the alternate.

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

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

Section 2.2.3. Meetings; Quorum; Required vote.

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

Section 2.2.4. Staff; Attorney.

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

Section 2.2.5. Rules and records.

- A. The Commission shall adopt its own rules of procedure as may be deemed necessary; provided such rules shall not be contrary to the spirit and intent of the Land Development Code or to the policies of the City. The Commission shall keep minutes of its meetings and records of all transactions and deliberations. Such minutes and records shall be filed in the appropriate offices of the City and shall be public records.
- B. All meetings of the Commission shall be open to the public.

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- 95
96 C. The Commission shall set up rules of procedure to monitor and oversee the effectiveness and status
97 of the Comprehensive Plan in order to make any recommendation to the City Council for changes in
98 the Comprehensive Plan as may from time to time be required consistent with the intent and purposes
99 of the Cape Coral Land Development Code relating to the Comprehensive Plan.

100
101 **CHAPTER 3. HEARING EXAMINER**

102
103 **Section 2.3.1. Establishment.**

104
105 There is hereby created a Hearing Examiner with authority to conduct quasi-judicial and other hearings in
106 accordance with provisions of this code in an equitable, expeditious, and effective manner. Nothing in this
107 section shall prohibit the City Council from enforcing any code by other means.

108
109 **Section 2.3.2. Appointment of Hearing Examiner(s); Vacancy: Recusal.**

- 110
111 A. The city shall utilize the services of one or more Hearing Examiner(s) to conduct quasi-judicial hearings
112 in accordance with provisions of this code.
113
114
115 B. The City Council shall appoint at least one qualified person to serve as the Hearing Examiner, and may
116 appoint at least one qualified person to serve as an alternate Hearing Examiner.
117
118 C. The appointment(s) shall be in the sole discretion of the City Council. However, any person appointed
119 to the position of Hearing Examiner must be an attorney duly licensed by the Florida Bar Association
120 to practice law in the State of Florida. Appointment(s) shall be made by written contract approved by
121 the City Council. The contract shall set out the terms and conditions, including compensation, travel,
122 mileage, and any additional powers and duties delegated or assigned to the Hearing Examiner.
123 Although appointed by contract, Hearing Examiners shall be subject to removal, with or without
124 cause, at any time during their term by the City Council in its sole discretion.
125
126 D. Hearing Examiners shall not be considered to be city employees.
127
128 E. If a Hearing Examiner vacancy occurs as a result of resignation, death, removal, or the Hearing
129 Examiner recuses, disqualifies himself or herself, or does not otherwise hear a particular case, and an
130 alternate Hearing Examiner is unavailable or otherwise unable to hear a case, these cases shall be
131 heard by the Planning and Zoning Commission in an advisory capacity and then heard by the City
132 Council for the final decision.
133

134 **Section 2.3.3 Exercise of power; powers and duties.**

- 135
136 A. Exercise of power. In exercising its powers, a Hearing Examiner may, upon appeal and in conformity
137 with the provisions of this code, reverse or affirm, wholly or partly, or may modify the order,
138 recommendation, requirement, decision, or determination made by the Director or an administrative
139 official in the application, interpretation, or enforcement of this code and may make any necessary
140 order, recommendation, requirement, decision or determination, and to that end shall have all the
141 powers of the administrative official from whom the appeal is taken.

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

1. Applications for special exceptions;
2. Applications for variances. The Hearing Examiner may impose any reasonable conditions or restrictions on a variance it decides to grant;
3. Applications for deviations;
4. Applications for vacations;
5. Applications for rezoning property;
6. Applications for PUD master control plans; and
7. Appeals of administrative decisions under the Land Development Code.

Section 2.3.4. City Attorney; City Clerk.

A. City Attorney. The City Attorney is the legal officer for the city. Because only attorneys may hold the position of Hearing Examiner, the city shall not be required to provide legal representation to the Hearing Examiner(s).

B. City Clerk. The City Clerk, shall attend all hearings and record (audio, video, or both) all hearings. The city shall retain the original recording(s) in accordance with the laws of the State of Florida, and, if requested, provide a duplicate of the recording(s) to the Hearing Examiner.

Section 2.3.5. Decisions; Recommendations.

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

CHAPTER 4. ADMINISTRATIVE DECISION MAKERS AND ENFORCEMENT OFFICERS

Section 2.4.1. City Manager.

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

Section 2.4.2. Department of Community Development.

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

Section 2.4.3. Community Development Director.

The Community Development Director is responsible for the administration of these regulations. Specifically, the Community Development Director is responsible for receiving applications for development approval, determining whether they are complete, and coordinating review of the

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applications. The Community Development Director shall have administrative responsibility to interpret the Land Development Code.

Section 2.4.4. Building Official.

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

Section 2.4.5. Planning Manager.

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

Section 2.4.6. Public Works Director.

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

Section 2.4.7. Development Services Manager.

The Development Services Manager is responsible for the implementation of various City regulations, codes and standards as well as other state and federal regulations pursuant to review and approval of applications for land development permits. The Development Services Manager reviews and approves Site Development Plans, Preliminary Subdivisions, Construction Plan approvals, Preliminary Subdivision approvals, Development Permits, and Certificates of Completion upon determination of compliance with the Development Permit. The Development Services Manager may attach to any approval or permit reasonable conditions, safeguards, limitations, or requirements which are found necessary and consistent with the review to effectuate the purpose of the Land Development Code.

Section 2.4.8. Code Enforcement Manager.

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

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CHAPTER 1. DEVELOPMENT REVIEW PROCEDURES

Section 3.1.1. Purpose.

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

Section 3.1.2. Classification of Development Review Procedures

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

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

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

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

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

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

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

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

Section 3.1.3. Development Approval Process; Table 3.1.3

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

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65

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

66
67
68
69

Section 3.1.4. Application submittals.

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

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authorized agent of the owner. An applicant who is a contract purchaser must provide proof that the applicant is an authorized agent of the property owner.

1. For rezone and comprehensive plan amendments involving multiple properties or ownerships, the owners of at least fifty-one percent of the number of parcels or the land area included in the application, whichever is greater, must join in the application.
2. For applications to vacate public rights-of-way or alleys, the owners of all parcels abutting the street or alley or portion thereof to be vacated must join in the application.
3. For applications to vacate easements, all owners of parcels abutting the easement and all owners entitled to use of the easement to be vacated must join in the application.
4. For applications to vacate any portion of a platted subdivision, all owners in the subdivision must join in the application.

B. Unless otherwise indicated by a specific provision of this Article or another City ordinance or regulation, applications for permits and approvals under this Chapter shall be submitted to the Community Development Department.

C. Applications shall contain all information required for the type of application being filed and shall include all plans, data, studies, or supporting documents required under this code or specified in the application forms.

D. The Community Development Department shall establish application forms and submittal requirements for all development applications referenced in this Article.

Section 3.1.5. Pre-application meetings.

A. Upon request of an applicant, the director may schedule and hold pre-application conferences with applicants and appropriate representatives of City staff, for the purpose of reviewing proposed development prior to the formal submission of an application. Applicants are encouraged, though not required, to request a pre-application conference. A pre-application meeting is required for Planned Unit Development applications.

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

C. At the pre-application meeting staff will:

1. Review the proposed project and any preliminary plans with the applicant.
2. Discuss and inform the applicant about the zoning requirements relevant to the proposal, information necessary for an application, and the approval process(es) for the project. This does not preclude the department or commission from requesting additional information or waiving certain requirements for information later during the review process.

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

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

Section 3.1.6. Fees Required.

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

Section 3.1.7. Complete Applications Required.

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

B. Determination of Completeness.

1. When an application for development approval is submitted, the director shall make a threshold determination as to whether the application is complete and in conformance with the land uses, density, and intensity allowed by the future land use designation and zoning district classification.

2. All applications shall be reviewed for completeness within ten days of receipt. If the application does not meet the requirements of this Article, the director shall notify the applicant or agent in writing, stating the additional information required or the modification(s) necessary for conformance.

3. No further action shall be taken on the application unless and until the additional information is submitted and determined to be complete by the director. If the incompleteness has not been remedied within sixty (60) calendar days of receipt of notice thereof, the application shall be automatically voided and the director shall return the application to the applicant.

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

Section 3.1.8. Review for Sufficiency and Code Requirements.

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

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

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

196

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

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

207

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

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- 253 3. Applicant responsibility for notice. When the notice radius specified in this section includes
254 property outside of the City limits, the applicant is responsible for obtaining the list of property
255 owners to be notified from the Lee or Charlotte County Property Appraisers and providing this list
256 to the department in sufficient time to comply with noticing requirements. The applicant is
257 responsible for any errors or omissions in the list provided.
258
- 259 4. Content. Generally, all public hearing notices shall contain the following information:
260
- 261 a. The scheduled date, time, and location of the hearing;
 - 262 b. A general description of the nature of the matter to be addressed, written in layman's terms;
 - 263 c. The address of the property;
 - 264 d. That persons may appear and be heard;
 - 265 e. That written comments filed with the department will be entered into the record;
 - 266 f. That the hearing may be continued from time to time as necessary;
 - 267 1. A telephone number and contact for more information;
 - 268 2. The case number or title of the ordinance under consideration, if applicable; and
 - 269 i. Such additional information as may be required pursuant to this code or applicable law for
270 specific types of development approval
271
- 272 5. Timing of mailed notice. Notice shall be mailed a minimum ten (10) calendar days prior to the
273 date set for the public hearing by first class mail. A copy of the notice shall be available for public
274 inspection during regular business hours at the Community Development Department. If the
275 application includes a simultaneous future land use map amendment and a rezone, the notice for
276 the rezone may be included in the notice required for the land use amendment.
277
- 278 G. Electronic Notice. The Community Development Department may, as a courtesy, send electronic
279 notice to any persons or organizations in the City, or to any governmental, public, or quasi-public
280 organization regarding any matter that may affect the interests of that person or organization, or on
281 any matter on which any such person or organization has requested notice. The failure of the
282 Department to send such notice or the failure of any resident or property owner to receive such
283 courtesy notice shall not affect the validity of the public notice requirements.
284
- 285 H. Exceptions to Mailing and Posting. The mailing and posting notice requirements shall not apply to a
286 land use map amendment initiated by the Council, in response to a judicial order or compliance
287 agreement as described by Section 163.3184(6) and (7), Florida Statutes.
288
- 289 I. Continued or Rescheduled Meetings. Notice of subsequent hearings shall be mailed and published in
290 accordance with this section for:
- 291 1. Any hearing for which the Hearing Examiner, Community Development Director, or City Attorney
292 determines new notice should be provided, because of the time elapsed from the original notice,
293 to correct any defect, or apprise affected parties of significant changes to the application as
294 originally noticed;
295
 - 296 2. Any hearing continued to an unspecified date, time, and place; or
297
 - 298 3. Any hearing where such new notice is required pursuant to applicable law or this Code.

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Section 3.1.11 Public Hearing Procedures.

- A. General. All public hearings shall be open to the public. Members of the public shall be permitted to testify at all public hearings. A copy of the hearing procedures shall be made available at the hearing. The applicant may withdraw an application by requesting such withdrawal in writing prior to the commencement of the hearing.
- B. Record of hearings. The City Clerk shall attend all hearings, and the City shall record (audio, video, or both) all hearings. The City shall retain the original recording(s) in accordance with the laws of the State of Florida, and, if requested, provide a duplicate of the recording(s).
- C. Official file. All written communication received by the decision-making body, the Hearing Examiner, or staff concerning an application, the staff report on the application, any petitions or other submissions from the public, and all other documents pertaining to the application shall be filed in the official file for the application, which shall be maintained by staff. The Comprehensive Plan, the City Code of Ordinances, and the Land Development Code shall be deemed to be part of the official file. The official file shall be available for inspection during normal business hours.
- D. Order of public hearings. The hearing shall, to the extent possible, be conducted as follows:
1. The Clerk shall read into the record the ordinance or resolution title and number, or the applicant's name, file number, and the subject matter to be decided if there is no ordinance or resolution.
 2. For quasi-judicial hearings, the applicant, staff, and all participants requesting to speak or present evidence or both at the hearing shall be collectively sworn by an oath or affirmation by the Clerk.
 3. The applicant may waive the applicant's right to an evidentiary hearing if applicant agrees with the staff recommendation and no one from the audience wishes to speak for or against the application. The decision-making body may then vote on the item or the Hearing Examiner shall rule on the matter or make a recommendation, based upon the staff report and any other materials contained within the official file. Regardless of a waiver by the applicant, a public hearing shall be held for all decisions requiring an ordinance or resolution.
 4. If there is an evidentiary hearing, the order of the presentation shall be as follows, unless the Hearing Examiner or Mayor determines to proceed in a different order, taking proper consideration of fairness and due process:
 - a. The applicant shall make the applicant's presentation, including offering any documentary evidence, and introduce any witnesses as applicant desires. The applicant shall present the applicant's entire case in 30 minutes.
 - b. Staff shall present a brief synopsis of the application; introduce any appropriate additional exhibits from the official file that have not already been transmitted to the Hearing Examiner or City Council with the agenda materials, summarize issues; and make a recommendation on the application. Staff shall also introduce any witnesses that it wishes to provide testimony at

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- the hearing. Staff shall present its entire case in 30 minutes.
- c. Public comment. Participants in opposition to or support of the application shall make their presentation in any order as determined by the Chair, Hearing Examiner, or Mayor. Each participant shall present their argument in five minutes.
 - d. For hearings on quasi-judicial matters only, the applicant may cross-examine any witness and respond to any testimony presented.
 - e. For hearings on quasi-judicial matters only, staff may cross-examine any witness and respond to any testimony presented.
 - f. The Chair, Hearing Examiner, or Mayor may choose to allow participants to respond to any testimony if the Chair, Hearing Examiner, or Mayor deems the response to be necessary to ensure fairness and due process.
 - g. Members of the Planning and Zoning Commission, Hearing Examiner, or City Council may ask any questions of the staff, applicant, and participants.
 - h. Final argument may be made by the applicant, related solely to the evidence in the record.
 - i. Final argument may be made by the staff, related solely to the evidence in the record.
 - j. For good cause shown, the Planning and Zoning Commission, Hearing Examiner, or City Council may grant additional time to any of the above time limitations.
 - k. The Chair, Hearing Examiner, or Mayor shall keep order, and without requiring an objection, may direct a party conducting the direct examination or the cross-examination to stop a particular line of questioning that, in the sole judgment of the Chair, Hearing Examiner, or Mayor merely harasses, intimidates, or embarrasses the individual testifying or being cross-examined; is unduly repetitious or is not relevant; or is beyond the scope of the application or, in the case of cross-examination, is beyond the scope of the testimony by the individual being cross-examined. If the party conducting the direct examination or cross-examination continues to violate directions from the Chair, Hearing Examiner, or Mayor to end a line of questioning deemed improper as set forth herein, the Chair, Hearing Examiner, or Mayor may terminate the direct examination or the cross-examination.
 - l. The Planning and Zoning Commission, Hearing Examiner, or City Council may, on its own motion or at the request of any person, continue the hearing to a fixed date, time, and place. The applicant shall have the right to one continuance; however, all subsequent continuances shall be granted at the sole discretion of the Commission, Hearing Examiner, or City Council.
- E. Decisions. For all quasi-judicial hearings in which a decision is made regarding an application for any development permit, the decision to approve or deny shall be based on whether the application meets all applicable requirements of the Comprehensive Plan, the City Code of Ordinances, and the Land Development Code, based on the entirety of the record before the Hearing Examiner or City Council. The Hearing Examiner or Council decisions must be based upon competent substantial evidence in the record.
- F. Rules of Evidence for quasi-judicial hearings.
- 1. The decision-making body or the Hearing Examiner shall not be bound by the strict rules of evidence, and shall not be limited only to consideration of evidence which would be admissible in a court of law. The decision-making body or the Hearing Examiner shall have the ability, but not the duty, to conduct site visits in their sole discretion and to consider any evidence so adduced in their deliberations.

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

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

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

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

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

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

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

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

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

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

Section 3.1.12. Decisions under this Article.

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

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

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

Section 3.1.13. Conditions on Approvals.

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

Section 3.1.14. Appeals

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

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

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

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

553 **CHAPTER 2. GENERAL REVIEW PROCEDURES**

554

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

556

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

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issued certificate of use under the prior LUDR or a certificate of zoning compliance under this Code to another use, shall be a violation of this Code, and punishable as such.

- B. Withdrawal of applications. An applicant may withdraw an application at any time by submitting a letter of request to DCD or providing testimony of the requested withdrawal in a public hearing.
- C. Effective date. All permits shall take effect on the day the permit is issued or an approval granted.
- D. Reliance on permits during pendency of appeals. Any action(s) taken by a permittee during the pendency of an administrative or quasi-judicial appeal shall be at the sole risk of the permittee.

CHAPTER 3. SPECIFIC REVIEW PROCEDURES - ADMINISTRATIVE PERMITS AND APPROVALS

Section 3.3.1. Zoning Verification Letter or Flood Verification Letter

- A. Purpose and Intent.
 - 1. Zoning Verification Letter. To provide an official determination of the zoning of specific property
 - 2. Flood Zone Verification Letter. To provide an official determination of the FEMA Flood zone, as shown on the Flood Insurance Rate Map (FIRM) for specific property.
- B. Review Criteria.
 - 1. The Department will review the applicable City records, maps, and any supporting information and issue a Zoning or Flood Zone verification letter.
 - 2. Verification letters are valid for the date upon which they are issued and may be subject to change.

Section 3.3.2. Certificate of Zoning Compliance.

- A. Purpose and Intent.
 - 1. To determine whether a proposed activity or use is permitted in the zoning district of the property in question, prior to application for a building or site development permit.
 - 2. To determine whether all structures and site development requirements (e.g., building setbacks, parking requirements, etc.) are in compliance with the requirements of this Code prior to application for or review of a building or site development permit.
 - 3. Miscellaneous certificates of zoning compliance . The Community Development Director is authorized to approve, approve with conditions, or deny a certificate of zoning compliance for the following buildings, structures, improvements and installations:
 - 1. Above ground pools that contain water over 24 inches deep;

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- 619
- 620 2. Agricultural or farm buildings and non-habitable structures on A, Agriculture zoned sites;
- 621
- 622 3. Canopy carports, canopies, and other fabric covered framework on residential properties;
- 623
- 624 4. Chickee huts constructed by Miccosukee or Seminole Indians;
- 625
- 626 5. Chain-link fences, picket fences, ornamental iron fences, and other fences installed on residential
- 627 property that are deemed non-wind resistant; provided, however, any pool safety barrier fence
- 628 and any fence with concrete columns shall require a building permit;
- 629
- 630 6. Decorative reflective pools and fishponds that contain water less than 24 inches deep, that contain
- 631 less than 250 square feet in area, and contain less than 2,250 gallons in volume;
- 632
- 633 7. Decorative garden-type water fountains and other similar hardscape features;
- 634
- 635 8. Portable mini-storage unit, subject to the conditions and limitations of contained in Article 5;
- 636
- 637 9. Donation bins, recycling bins, mobile medical and professional units in accordance with Article 5;
- 638 and
- 639
- 640 10. Anchoring, mooring, docking, or storage of a houseboat.
- 641
- 642 B. The Community Development Director shall have the authority to require a zoning or site improvement
- 643 permit review for other buildings, structures, improvements and installations that are newly created or
- 644 come about by changes in the state or local building codes; or other improvements deemed necessary for
- 645 approval.
- 646
- 647 C. Review Criteria.
- 648
- 649 1. To determine whether the proposed use is a permitted use, a conditional use, or a special
- 650 exception under this code.
- 651
- 652 2. Submittals will be reviewed for compliance with applicable code requirements (e.g., parking,
- 653 setbacks, conditional use criteria, conditions of approval, etc.)
- 654
- 655 D. Specific Requirements for Certificates of Zoning Compliance.
- 656
- 657 1. Posting required. The original certificate of zoning compliance shall be posted in a conspicuous
- 658 location accessible to the public on the business premises at all times.
- 659
- 660 2. Revocation. The Community Development Director shall notify the holder of any certificate of zoning
- 661 compliance, in writing, of the City's intent to revoke a certificate of zoning compliance for any of the
- 662 following reasons:
- 663

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

692 **Section 3.3.3. Administrative Interpretations**

693

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

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1. To determine whether a proposed use activity or site design complies with specific provisions of the comprehensive plan and is in keeping with the spirit and intent of the comprehensive plan.
2. Consistency with LDC.
3. Whether the proposed use or activity complies with CDD policies and procedures.

Section 3.3.4. Lots Splits and Lot Combines

A. Purpose and Intent.

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

B. General Requirements

1. All divisions of land in the City shall occur only as a subdivision, a replat, or a lot split. The requirements for subdivisions and replats are set forth in Article 9 of this Code. A lot split that does not meet the requirements of this chapter is deemed a subdivision or a replat and shall be defined and processed as a preliminary subdivision.
2. No lot split shall be recognized by the City, no lot that is part of a lot split shall be sold, and no building permit shall be issued unless the lot split has been approved by the City prior to recording in accordance with the requirements of this Article.

C. Review Criteria and Standards

1. Whether the lot split or combine creates nonconforming lots and structures.
2. The lot split or combine shall not cause marine improvements to become nonconforming for setbacks or any other standards regarding such structures.
3. Ensure that the lot split or combine does not create split zoning on a parcel.
4. The newly configured lots must have at least twenty-five feet (25') of frontage on an existing right-of-way, private road, canal, lake, basin, or river. The minimum lot width of the zoning district must be met when measured at the front or rear setback, where applicable.
5. The newly created lots shall not result in private utility lines crossing property lines.
6. A survey sketch prepared by a public surveyor and mapper (PSM) indicating the legal description of the parent parcel, boundaries, dimensions, easements, restrictions or agreements affecting the

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property, rights-of-way, utilities, location of existing buildings, and other pertinent information including wetland boundaries and location of specimen and historic trees. The survey shall be required to be signed, sealed, dated, and certified to the City.

7. Approval and recording. The Community Development Department shall review the proposed lot split for compliance with the criteria listed in this subsection and Article 9, Subdivisions. Once approved the applicant may proceed with the lot split and record the lot split with the Lee County Property Appraiser. Approval shall expire within one (1) year of issuance if not recorded.

Section 3.3.5. Conditional Uses

A. Purpose and Intent

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

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

1. The conditional use standards identified in Article 4 for the specific zoning district use and conditional use in question.
2. The proposed conditional use will not result in development that is inconsistent with the intended character of the applicable zoning district.
3. A listed conditional use that does not meet the applicable conditional use standards may apply for approval as a Special Exception.

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

Section 3.3.6. Administrative Deviations

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

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

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

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

832 **Section 3.3.7. Site Development Plans**

833

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

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

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C. Modifications, deletions, and revisions.

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

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

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

Section 3.3.8 Temporary Use Permits

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

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B. General Standards.

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

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

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

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

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

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985 7. Special Events

986
987 **Section 3.3.9. Temporary storage**

988
989 A. Temporary storage containers are prohibited in any zoning district of the city, except as follows:

- 990
991 1. Residential zoning districts. No more than one temporary storage container per dwelling unit is
992 permitted in residential zoning districts.
993
994 2. Non-residential zoning districts. No more than two temporary storage containers are permitted
995 in non-residential zoning districts. In the case of multi-tenant non-residential properties, each
996 business or tenant may have a temporary storage container.
997
998 3. This section is not intended to restrict the storage or location of temporary storage
999 containers on the premises of a business which is lawfully engaged in the sale, rental, or
1000 distribution of such containers so long as the containers are on the property of such business
1001 as "merchandise" and not for temporary storage of items or goods.
1002
1003 4. The provisions of this section shall not apply to prohibit or restrict the location of temporary
1004 storage containers on any property for which a valid City of Cape Coral building permit has
1005 been issued and is in effect provided that the construction on the property has not been
1006 abandoned or allowed to lie idle in violation of § 5-2 of the City of Cape Coral Code of
1007 Ordinances.

1008
1009 B. General Requirements:

- 1010
1011 1. No temporary storage container may be placed in one or more parking spaces if the required
1012 number of parking spaces is reduced below the minimum number of spaces required for the
1013 site.
1014
1015 2. No temporary storage container shall block or reduce access to fire lane(s), handicapped
1016 parking area(s), or drainage facilities or structures, including swales and catch basins.
1017
1018 3. Temporary storage containers shall not be placed in an easement or in any area designated
1019 as a buffer.
1020
1021 4. The maximum size of temporary storage containers shall not exceed ten feet in width, ten
1022 feet in height, or 40 feet in length.
1023
1024 5. Non-residential zoning districts. Temporary storage container permits are valid for 30 days.
1025 A maximum of two temporary storage container permits may be issued for a property or, in
1026 the case of multi-use or multi-unit properties, for each business or commercial enterprise
1027 located on the property in any calendar year. Temporary container permits may run
1028 consecutively without any minimum period required to elapse between the issuance of
1029 permits.
1030

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

Section 3.3.10 Seasonal sales

- A. Except as provided herein, temporary outdoor seasonal sales of merchandise are prohibited. Seasonal sales of pumpkins, Christmas trees, or fireworks are permitted when conducted or sponsored by governmental agencies, nonprofits, charitable or religious organizations, sports, educational groups, social groups such as garden clubs, and fraternities or sororities. Seasonal sales of Girl Scout cookies and similar sales are permitted.
- B. Permitted seasonal fundraising events involving outdoor sales of merchandise shall meet the appropriate requirements of the Building Code, Electrical Code, Fire (Life Safety) Code, and Plumbing Code, particularly regarding temporary sanitary facilities; and are prohibited unless they received all required permits in compliance with this subsection. Sales of pumpkins, Christmas trees, or fireworks shall be permitted in all zoning districts except Preservation, Public, others ?. With the prior approval of the City Manager, such sales may be permitted in accordance with the following limitations and requirements:
1. Pumpkins may be sold from October 1 through November 5;
 2. Christmas trees may be sold from November 15 through January 1;
 3. Fireworks may be sold from December 15 through January 1 and from June 1 through July 10;
 4. The hours of operation of all such seasonal sales shall be limited to 8:00 a.m. through 10:00 p.m.; and
 5. Seasonal sales shall comply with all location and permitting requirements specified in § 3.4.1B.
- C. In R-3, Multi-Family Residential zoning districts, the City Manager may withhold approval of the seasonal sale if he or she determines that such sale would result in adverse impacts on the surrounding neighborhood. Alternatively, the City Manager may place condition(s) on the approval of a seasonal sale in an R-3, Multi-Family Residential zoning district, if he or she determines that such condition(s) are necessary in order to protect the surrounding neighborhood from adverse impacts which would otherwise result from such seasonal sale.

Section 3.3.11 Construction trailers

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

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1. Construction trailers shall not be connected to potable water and sewer facilities. If the construction trailer is wired for electricity, the wiring must conform to all applicable city electric codes.
 2. The construction trailer must be removed from the site prior to issuance of a certificate of occupancy.
 3. No overnight residential use shall be permitted in a construction trailer.
 4. Construction trailers must comply with the setback requirements of the zoning district or the site.
 5. Construction trailers shall not be larger than 200 square feet.
- B. Construction trailers in non-residential zoning districts are subject to the following requirements.
1. When a construction trailer is used as a temporary office, the trailer must be wired for electricity and must be connected to potable water and sewer facilities, if available. Wiring and plumbing must conform to applicable Electric and Plumbing Codes.
 3. The construction trailer must be located at the construction site or an abutting site with the property owner's written permission.
 4. The construction trailer must be removed from the site prior to issuance of a certificate of occupancy.
 5. No overnight residential use shall be permitted in a construction trailer.
 6. Construction trailers must comply with the setback requirements of the zoning district or the site.

Section 3.3.12 Construction staging areas and post disaster debris staging

- A. Contractor staging for essential public facilities. Contractor staging areas for materials used in construction of essential public facilities are permitted in all zoning districts, subject to the following requirements:
1. The temporary staging area shall serve a project being carried out in the vicinity of the construction staging area;
 2. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;
 3. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through Saturday only.

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1123 4. Fencing required

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

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

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

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

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

1139
1140 **Section 3.3.13 Temporary sales offices**

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

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

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

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

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

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

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

1211 **Section 3.3.14 Temporary Habitable structures.**
1212

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

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5. Public, semi-public, and privately-owned utilities;
 6. Hospitals, emergency medical care facilities, infusion centers, dialysis centers, physician's offices; and
 7. Nursing homes and assisted living facilities.
- F. Temporary placement permit. Following the declaration of a habitable structure emergency, a property owner may apply for a temporary placement permit (TPP) to locate onsite while the permanent structure is being repaired or rebuilt. A temporary placement permit (TPP) may be considered by the Building Official when the following criteria are met:
1. The existing permanent habitable structure has been determined to be uninhabitable as the result of a disaster by inspection of the city Building Official;
 2. The property owner or occupant of a damaged structure desires to locate in a temporary residential or business structure; and
 3. A habitable structure emergency must be in effect at the time of application.
- G. Applications for temporary placement permits.
1. Application forms and required fees.
 2. The following permits are required prior to application for a TPP:
 - a. City permits for hook-up to electric, potable water, and wastewater utilities; and
 - b. A State Department of Health or State Department of Environmental Protection permit authorizing the connection of the temporary residence to an onsite or small domestic wastewater treatment system.
- H. Time limits. Temporary structures may be located for a period not to exceed 30 days. At the end of that 30-day period, if no application has been filed, the temporary habitable structure must be immediately removed from the site. If an application has been filed within the 30-day time period, the temporary habitable structure may remain in place until the TPP is either approved or denied. Once approved, the temporary habitable structure may remain in accordance with the TPP. If denied, the temporary structure shall be removed within five days from the date of denial.
- I. Terms of use of temporary habitable structures. Applicants for a temporary habitable structure shall be subject to the following:
1. Except as otherwise provided herein, temporary structures shall not be occupied until such time as a valid TPP has been issued and is in effect for the site.
 2. Connection to sanitary sewer and potable water, or onsite water and wastewater facilities, and an external electrical system are required within 20 days of issuance of the TPP.

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Inspections for such connections shall be called into the city within two days of completion of each connection. Electrical and plumbing connections must be done by electricians or plumbers licensed to do business in the City of Cape Coral.

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

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

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

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

6. Occupants must comply with all mandatory hurricane evacuation requirements.

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

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

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

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

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

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

1. Temporary residential structures may be anywhere on the site of the existing permanent residence; however, no a temporary residence is allowed within road rights-of-way or drainage or utility easements. The city may waive any development regulations regarding lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate temporary residential structures.
2. Where more than one existing permanent residence has been rendered uninhabitable, the Building Official may allow up to the number of damaged permanent residences or residential units on the site. Such determination shall be based upon consideration of life, health, and safety requirements.
3. For temporary business structures:
 - a. Temporary business structures may be anywhere on the parcel of the existing business; however, temporary business structures are not -allowed within road rights-of-way or drainage or utility easements. The city may waive any development regulations regarding lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate temporary business structures.
 - b. Temporary business structures may be on property adjacent to the permanent business structure if a notarized, written consent from the property owner is submitted at the time of application for a TPP.
 - c. The establishment of an emergency response team center on a parcel containing a business does not necessarily preclude the placement of one or more temporary business structures on the same parcel.
 - d. Parking for a temporary business structure shall be provided based upon the square footage of the temporary business structure, including handicapped parking. However, a minimum of two handicapped parking spaces must be provided.
 - e. The entrance to the site shall have a city approved driveway or construction entrance. Any impervious area added for the temporary business structure shall be subject to review and approval by the city.
 - f. Additional conditions or restrictions may be placed on a temporary business structure as a condition of issuance in areas including, but not limited to, the following:
 - i. Hours of operation;
 - ii. Traffic control and access;
 - iii. Lighting; and
 - iv. Noise control.

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

1. Failure to connect to water, sewer, and electrical within 20 days of the receipt of the TPP.

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

N. Extensions and expiration of temporary placement permits.

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

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

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

Section 3.3.15 Special Events.

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

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

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

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

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

1586 D. Permit Decision.

1587

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

1600 E. Violations and Penalties.

1601

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

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

1613

1614 **Section 3. 4.1 General Requirements**

1615

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

1617 approving the variance is recorded in the public record.

1618

1619 **Section 3.4.2 Variances.**

1620

1621 A. General.

1622

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

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

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

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

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

Section 3.4.3. Special Exceptions.

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

B. General.

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

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2. The Hearing Examiner may prescribe appropriate conditions and safeguards in conformity with the special exception use requirements. All such conditions shall be part of the terms under which the special exception is granted.
 3. A special exception shall be deemed abandoned if:
 - a. The use is discontinued for more than 1 year; or
 - b. The special exception has not obtained a certificate of zoning compliance.
 4. The proposed use shall comply with all requirements of the underlying zoning district(s), the Land Development Code, and all other applicable law.
- B. Standards and Criteria. The following standards shall apply to all applications for special exception uses.
1. Consistency with the Comprehensive Plan?
 2. The site must be suitable for the type of special exception use proposed by virtue of its location, shape, topography, and the nature of surrounding development.
 3. All buildings shall be setback an adequate distance from property lines and rights-of-way. Greater building setbacks may be required when deemed necessary to protect surrounding properties.
 4. Potential adverse impact to surrounding property must be mitigated to the maximum extent possible.

Section 3.4.4. Vacations of Plats, Easements, and Rights-of-way

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

A. General.

1. The city may retain an easement for utilities or drainage over any vacated right-of-way and that no use may be made of vacated right-of-way which will be inconsistent with or interfere with the retained easement. The party seeking vacation of a plat, city street, alley, canal, other right-of-way, public easement, or other property must show or submit the following:
 - a. Petitioner has color of title to the tract or parcel of land covered by the plat or portion of the plat of which vacation is sought, unless the petitioner is the City of Cape Coral;
 - b. Letter of approval from Lee County Electric Cooperative, Inc.;

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- c. Letter of approval from affected telephone companies;
- d. Letter of approval from affected cable companies; and
- e. Letter of approval from any other affected utility companies (e.g., water, sewer);

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

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

- 1. Whether the plat, easements, or rights-of-way are required by the City for any future transportation, access, water management, or public utility purposes.
- 2. Whether any required easements are necessary to accommodate the vacation of any plat, easement, or right-of-way.
- 3. If alternate routes are required or available that do not cause adverse impacts to surrounding areas.
- 4. If the closure of a right-of-way negatively affects areas utilized for vehicles to turn around and exit an area.
- 5. Whether local utility providers have given consent to the vacation of the plat, easements, or rights-of-way. The local utility providers may require additional easements or relocation of existing utilities facilities to complete the vacation.

C. Additional Procedures and Noticing Requirements. In addition to the standard notice requirements required by this Code, the following additional notice requirements apply for vacations:

- 1. Specific notice requirements for vacations. Public hearing notices to vacate a plat or portion thereof shall be published once a week for two consecutive weeks, the first publication being not less than two weeks prior to the date of public hearing on the petition.
- 2. If the parcel to be vacated includes an alley, all property owners serviced by the alley and all property owners serviced by a connecting alley shall be noticed.
- 3. Adoption and recording of resolution and ordinance. After public hearing, the City Council may approve an application for a vacation if it determines there is no reasonably foreseeable public use for the vacated area. Approval of a vacation shall be by resolution or ordinance. The City may retain easements for utilities or drainage in and upon the vacated area. Upon adoption of the resolution vacating the plat or portion thereof, the City Clerk shall furnish to the petitioner a certified copy thereof and the petitioner shall cause the same to be recorded in the public

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

4. Effect. The adoption and recording of a vacation shall have the effect of vacating all streets and alleys and city-owned easements shown on the portion of the plat so vacated, unless the resolution or ordinance specifically reserved unto the city such city-owned easements or such streets or alleys. If public rights-of-way are vacated, the resolution or ordinance shall specify whether or not easements are reserved therein for utilities and drainage. The resolution or ordinance shall not have the effect of vacating any public canal shown on the portion of the plat vacated, unless the resolution or ordinance specifically so provides.
5. Petitioner's responsibility. The city, City Council, and all officers, employees, and agents thereof shall not assume any responsibility or liability for any matters and things to be done or completed by the petitioner pursuant to the provisions hereof. It is recognized that this procedure may affect substantial interests in real property and other proprietary rights, and the petitioner shall assume full and complete responsibility for compliance with the requirements of law and these procedures in connection with or arising out of any vacation proceedings instituted by the petitioner.

Section 3.4.5. Rezones

- A. Manner of Initiation. Applications for a change in zoning may be initiated in the following manner:
 1. The City Council upon its own motion;
 2. The Planning and Zoning Commission upon its own motion;
 3. The property owner(s) of at least fifty-one percent of the land in the proposed rezone area;
 4. The City Manager for a City initiated rezone; or
 5. The Community Development Department, following approval of a similar use determination.
- B. Review Criteria. An application for a rezone shall be reviewed in accordance with the following criteria:
 1. Whether the proposed zoning district proposed is consistent with the City Comprehensive Plan;
 2. Whether the full range of uses allowed in the proposed zoning district will be compatible with existing uses in the area under consideration;
 3. Whether the range of uses allowed in the proposed zoning district will be compatible with existing and potential uses in the area under consideration;
 4. Whether the proposed zoning district will serve a community need or broader public purpose;

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

Section 3.4.6. Planned Unit Developments (PUD)

- 1824
1825
1826 A. General.
1827
1828 1. A Planned Unit Development (PUD) is an area designed for development as a cohesive unit,
1829 where uses and innovations in design and layout of the development provide public benefits
1830 when compared to standard zoning or uniform lot and block subdivision patterns and design
1831 features.
1832
1833 2. In a PUD, the various land use elements are designed so that they interrelate with each other.
1834 The boundary between a PUD and adjacent land area(s) requires particular attention to ensure
1835 transition and that land use patterns are compatible.
1836
1837 B. Purpose and Intent. The purpose and intent of a PUD are to:
1838
1839 1. Innovation in Design. To encourage innovations in residential, commercial, mixed-use, and
1840 industrial development so that the needs of the population may be met by greater variety in
1841 type, design and layout of buildings and land uses and by the conservation and more efficient
1842 use of the space.
1843
1844 2. Appropriate Land Use. To promote the most appropriate use(s) of the land.
1845
1846 3. High Quality Development. To improve the design, character, and quality of new development.
1847
1848 4. Infrastructure. To facilitate the adequate and efficient provisions of roads and utilities.
1849
1850 5. Increased Compatibility. To achieve compatibility with surrounding neighborhoods and
1851 developments.
1852

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

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

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

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

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

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

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

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

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

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

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

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

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L. Effect of PUD approvals.

1. PUD zoning. A rezone to a PUD zoning district shall run with the land.

2. Master Concept Plans. A MCP shall be valid for any time period established in the conditions of approval for the MCP. If a specific time period is not specified then the MCP shall run with the land.

OR

3. If a Site Development Plan, a building permit for vertical construction, or a subdivision plat has not been approved within 10 years, the Master Concept Plan shall be null and void, unless an extension has been approved by City Council.

M. Extensions. A PUD may receive one extension that is valid for two years. Upon expiration of the extension, the Master Concept Plan shall be null and void.

CHAPTER 5. SPECIFIC REVIEW PROCEDURES - LEGISLATIVE APPROVALS

Section 3.5.1. Annexations

A. Purpose of Annexations. Annexations shall be considered for the following reasons:

1. The annexation implements the Comprehensive Plan.
2. The annexation increases the City's inventory of non-residential lands.
3. The annexation results in the removal of enclaves.
4. The annexation results in the logical extension of City boundaries.

B. Manner of Initiation. Applications to annex property in to the City may be initiated in the following manner:

1. The City Council; or
2. By a petition of one or more owners of property within an area proposed for annexation.

C. Review Criteria. Proposed annexations shall be reviewed in accordance with the requirements of Chapter 171, Florida Statutes.

D. Effective date of approval: The effective date of an annexation will take place in accordance with Chapter 171, Florida Statutes.

Section 3.5.2. Future Land Use Map Amendments

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

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

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

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

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

Section 3.5.3. Comprehensive Plan Text Amendments

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

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

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

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

4. The amendment implements the Comprehensive Plan.

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

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

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

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

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

1. The City Council;

2. The Planning and Zoning Commission; or

3. The City Manager for City initiated requests.

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

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

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

Section 3.5.4. Land Development Code Text Amendments

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

1. The amendment clarifies the intent of the LDC.
2. The amendment corrects an error in the LDC.
3. The amendment addresses changes to state legislation, recent case law, or opinions from the Attorney General of the State of Florida.
4. The amendment implements the LDC or Comprehensive Plan.
5. The amendment promotes compliance with changes to other city, state, or federal regulations.
6. The amendment adds district uses that are consistent with the character of the current range of allowed uses.
7. The amendment results in providing compatible land uses within Cape Coral.
8. The amendment implements findings of reports, studies, or other documentation regarding functional requirements, contemporary planning practices, environmental requirements, or similar technical assessments.

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

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

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

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 6 – PARKING**

CHAPTER 1. PARKING, LOADING, AND DRIVEWAY REQUIREMENTS.

Section. 6.1.1. Purpose and applicability.

The purpose of this Chapter is to ensure that required off-street space is provided to allow for loading, unloading, and parking on private property by motor vehicles, bicycles, and other allowed vehicles. It is further intended that the design of off-street parking areas ensure safe and efficient traffic circulation, with consideration given to the surrounding street plan, pedestrian movements, and safety. All development and redevelopment shall provide off-street parking in compliance with the standards set forth in this Chapter and the Engineering Design Standards.

Section. 6.1.2. Standards for parking and vehicular use areas.

Parking spaces and drive aisles shall conform to standard designs found in the City of Cape Coral Engineering and Design Standards. Plan requirements for parking areas can be found in Table 5.6.1. Plan Contents for Landscaping, Lighting, and Parking Plans.

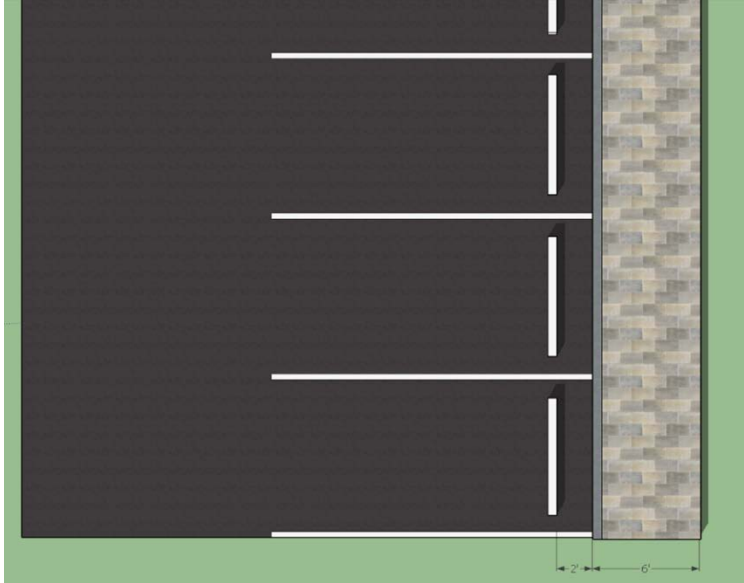
Section. 6.1.3. Parking, driveway, and vehicular use areas: provision, location, and setbacks.

Off-street parking facilities required by this article shall be fully within the property lines of the parcel they are intended to serve unless an alternative location is approved as provided in this Chapter.

- A. Setbacks and buffering from property lines. Landscape buffers required by Article 6 shall be maintained along the perimeter of parking lots.
- B. Driveways. All driveways shall be designed and constructed per the requirements set forth in the Engineering and Design Standards of Cape Coral.
- C. Pedestrian Safety. All off-street parking facilities, including drive aisles, travel lanes, and driveways shall be arranged to minimize hazards to pedestrian movement in the immediate area or encroach upon fire lanes, walkways, and visibility triangles. Pedestrians must be protected from exiting a building into vehicular traffic in an emergency. The applicant shall provide a walkway or a protected area with a minimum width of the doorway plus five feet beyond the swing of the door. All exit discharges from buildings shall be protected by permanent means to ensure pedestrian areas are protected from vehicular encroachment.
- D. Pedestrian Safety Zones. Within parking areas over 100 spaces for commercial uses, paved pedestrian walkways at least six feet in width shall be provided at 200-foot intervals. Such walkways may be interrupted by necessary drive aisles, but shall include adequate wheel chair ramps, if necessary. Curbs or wheel stops shall be so placed to prevent any portion of the vehicle to encroach upon the pedestrian safety zone. Diagram 6.1.3. illustrates a pedestrian safety zone.

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Diagram 6.1.3. Pedestrian Safety Zone



Section. 6.1.4. Off-street loading facilities.

Appropriate and adequate loading facilities shall be required for businesses which receive regular deliveries.

A. Design and location.

1. Loading spaces may not be blocked by parking spaces.
2. Design of the space shall be such that the delivery vehicles can maneuver without damaging landscaped areas.
3. Loading spaces may be shared by adjacent properties when delivery schedules do not overlap and an access agreement has been completed.
4. Loading zones may not be placed where they obstruct required fire lanes and access to hydrants.
5. Loading zones shall be in a place which ensures convenient and safe entry and exit for the users of the loading zone, and the convenience and safety of pedestrians and motorists using the development.

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Section. 6.1.5. Required visibility triangles. (wouldn't hurt to have diagram, or reference to EDS)

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

- A. All landscaping and signs within the visibility triangle shall provide unobstructed visibility between 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard.
- B. The property owner shall be responsible for maintaining all landscaping within the visibility triangle.
- 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. 6.1.6. Common driveways, shared parking, and off-site parking.

- A. Common driveways shall be encouraged and may be required to reduce the number of curb cuts along a right-of-way. Driveways shall be located in accordance with the Engineering Design Standards. Driveway access to State and County maintained roadways are regulated by FDOT and Lee County and require separate permits from the respective agency prior to commencement of construction. Approval of a common driveway will require submittal of a notarized shared access agreement and easement, acceptable to the City, which shall be recorded against the title for each property involved.
- B. Off-site parking and shared parking. In an instance where a business is unable to provide adequate parking on-site, off-site parking may be approved by the Director of Community Development. Shared parking agreements and off-site parking agreements shall be reviewed as often as is appropriate to ensure compliance and adequacy of all provisions.
 - 1. Approval of off-site parking shall be dependent upon:
 - a. Safe and convenient access to the off-site parking from the business which will be utilizing the off-site parking;

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- 119 b. Proof of ownership of the parking lot by the business or a recorded parking agreement
120 recorded against the title of the property to utilize the parking, which may not be eliminated
121 or modified without concurrence by the City;
122
123 c. Evidence that the parking will be available to the business during the times when the
124 parking will be needed; and
125 d. Appropriate paving, marking, and lighting of the off-site parking.
126
127 2. In addition to the above requirements, to qualify for shared parking approval one of the
128 following must apply:
129
130 a. It can be proven that the uses in question have peak parking demands during differing times
131 of the day or days of the week; or
132
133 b. A finding is made that there will be a lower demand for parking due to a high proportion of
134 multi-purpose visits. The applicant shall provide documentation to show that the proposed
135 parking for the multiple uses will be adequate. This documentation shall account for all the
136 potential uses allowed in the zoning district on the properties to be served by the shared
137 parking.
138
139 C. Proximity to dedicated city parking areas. Any development within 25 feet, excluding alleys and
140 walkways, of a dedicated city parking area may utilize that area to satisfy off-street parking
141 requirement, provided a sufficient number of improved spaces exist in the city parking area to
142 accommodate the number of spaces otherwise required by this ordinance for such development. If
143 a sufficient number of improved parking spaces do not exist at the time of application, the owner
144 or developer may improve the dedicated city parking area to the extent necessary to provide such
145 sufficient number of improved parking spaces in accordance with the City of Cape Coral Engineering
146 Design Standards. Once the dedicated city parking area has been properly improved and inspected,
147 the city shall be responsible for all maintenance of the public parking area.
148

149 **Section. 6.1.7. Amount of required parking.**

150
151 A. Generally.

- 152
153 1. The City shall not approve the construction of a parking lot with more than 110 percent of the
154 parking spaces required in Table 6.1.7.A.
155
156 2. Accessible parking spaces shall meet ADA requirements.
157
158 3. Bicycle parking. Permanently placed bicycle parking shall be provide in accordance with
159 Subsection 6.1.7.B and Table 6.1.7.B.
160
161 4. Opportunities for reduction in parking requirements. A developer may request a reduction in
162 parking during the site plan process by using the following methods:
163

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- a. If the Institute of Transportation Engineers (ITE) Reference Manual entitled Parking Generation allows a lesser number of parking spaces for the proposed use or a use of similar characteristics, then the number of parking spaces required for a development may be reduced.
- b. A reduction in the required number of spaces may be allowed if the owner or developer of a development provides the city with credible evidence that the parking needs are actually less than those reflected in the Table of Parking Standards or that the need for off-street parking spaces would be met through alternative means. Such credible evidence may include parking generation studies conducted within the City of Cape Coral or other similarly sized communities.

TABLE 6.1.7.A. Required Number of Parking Spaces for Uses.

Uses	Required Parking Spaces
Residential Uses	
Assisted Living Facility (ALF)	One space per four beds plus one space per employee on the largest shift
Community residential facility or home	A minimum of two spaces for up to six residents with one space for every four additional residents
Daycare Center (adult or child, in home or commercial)	A minimum of two spaces for up to five children with one space for every 10 additional children
Dormitories	One space for the first three residents plus one space per employee based on the largest shift
Model home	Three spaces per model home
Residential—mixed-use residential	Sum of unit type plus uses
Residential—multi-family residential	1.5 spaces for one bedroom units
	Two spaces for dwelling units with two or more bedrooms
	Developments 10 units or greater shall provide one space for every five units for guest parking
Residential—single-family-detached residential	Two spaces, including space in garage if provided
Residential, Duplex	Two spaces per dwelling unit, including space in garages
Residential—Single-family attached	Two spaces per dwelling
Public and Institutional Uses	
Animal shelter	One space per 400 sq. ft. of gross floor area
Community centers	One space per 250 sq. ft. of gross floor area

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Cultural and civic facilities—libraries, museums	One space per 300 sq. ft. of gross floor area
Elementary and middle school educational facility—public or private	One space per classroom plus one space per employee
High school educational facilities—public or private	One space per four students of design capacity plus one space per classroom
Secondary educational facilities—technical, vocational, specialty—non-public	One space per 200 sq. ft. of gross floor area
Government facilities, including administrative, support and service	One space per 300 sq. ft. of gross floor area
Hospital—private, public	One space per 200 sq. ft. of gross floor area
Outdoor Amphitheater	1/4 seats, or 1/80 square feet of seating area ADD
Public parks and recreational facilities	3/acre of land designated for passive recreation + 1/2,000 square feet of playground or picnic area ADD
Sewage lift or pumping station	One space per facility
Solid waste transfer station	One space per employee on largest shift plus one space per facility vehicle
Utilities and related facilities, city or other	One space for unmanned facilities; One space per employee on largest shift at manned facilities
Vehicle Related Commercial Uses	
Car wash	One space per employee on largest shift
Rental—automobile, truck, and other vehicles	One space per 400 sq. ft. of gross floor area
Gas stations	One space per 300 sq. ft. of gross floor area
Vehicle major or minor repair and parts—mechanical, service, or body (new or used)	One space per 400 sq. ft. of gross floor area plus one space per bay
Vehicle sales—new or used automobiles	One space per 400 sq. ft. of gross floor area
Recreation, Entertainment Uses	
Adult Entertainment Establishment	One space per 100 sq. ft. of gross floor area
Marinas	One space for every two boat slips
Golf course	36 spaces per 9 holes plus one space per 200 sq. ft. of gross floor area
Driving range	One space for every two tees

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Golf, miniature	One space per hole
Gun, pistol range, gun clubs, archery clubs—indoor	One space per 250 sq. ft. of gross floor area
Sports fields, basketball courts, racket ball courts, sporting activities—indoor	One space per four seats
Sports fields, basketball courts, racket ball courts, sporting activities—outdoor	20 spaces per field
Indoor Commercial Entertainment	One space per 250 sq. ft. of gross floor area
Restaurant, Food and Beverage Service Uses	
Bar/lounge	One space per 100 sq. ft. of gross floor area
Brewpub	One space per 100 sq. ft. of gross floor area
Catering Service, no public interface	One space per 400 sq. ft. of gross floor area
Nightclub, Discotheque, Club, Cabarets.	One space per 100 sq. ft. of gross floor area
Restaurant, sit down	One space per 100 sq. ft. of gross floor area plus one space for every four outdoor seats
Restaurant, fast food	One space per 100 sq. ft. of gross floor area
Micro-Brewery or Distillery	One space per employee on the largest shift plus one space per 100 sq. ft. of tasting room area
Places of Assembly Uses	
Banquet hall	One space per 100 sq. ft. of gross floor area
Place of religious assembly	One space for every four seats
Private clubs, not public	One space per 100 sq. ft. of gross floor area
Theater (movie, performing arts)	One space for every four seats
Commercial Uses	
All Retail Stores, other than those listed below	One space per 300 sq. ft. of gross floor area
Wholesale	One space per 400 sq. ft. of gross floor area
Retail—big box, club membership, department, home improvement	One space per 400 sq. ft. of gross floor area
Short Term Lodging	
Camp grounds, RV parks	One space per site plus one space for every 10 additional sites
Hotels, Motels, Resort, Lodging	One space per room plus one space per 400 sq. ft. of gross floor area for all other uses

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Transient Housing—shelters	One space for every five beds plus one space for every employee or volunteer
Vacation Rentals	One space per bedroom with a minimum of two spaces
Office Uses	
Call center	One space per 300 sq. ft. of gross floor area
Office—business, sales, professional, semi-professional services	One space per 300 sq. ft. of gross floor area
Office—medical office/medical clinic	One space per 300 sq. ft. of gross floor area
Service Uses	
Animal grooming and pet sitting—indoor	One space per 300 sq. ft. of gross floor area
Animal Hospital/Veterinarian clinic	One space per 300 sq. ft. of gross floor area
Animal kennel, boarding	One space per 300 sq. ft. of gross floor area
Blood banks, diagnostic medical treatment centers	One space per 300 sq. ft. of gross floor area
Check cashing, bill payments	One space per 300 sq. ft. of gross floor area
Copy, printing center	One space per 300 sq. ft. of gross floor area
Cosmetic Surgery, beauty clinics	One space per 300 sq. ft. of gross floor area
Customer service center	One space per 300 sq. ft. of gross floor area
Dry cleaning	One space per 300 sq. ft. of gross floor area
Financial institution - banks, credit unions, investment brokerage establishments	One space per 300 sq. ft. of gross floor area
Health club, fitness club	One space per 300 sq. ft. of gross floor area
Laundromat, self-service	1 per 3 machines and One space per 300 sq. ft. of gross floor area
Massage Therapy, body wrapping	One space per 300 sq. ft. of gross floor area
Package shipping, mail service	One space per 300 sq. ft. of gross floor area
Personal care services	One space per 300 sq. ft. of gross floor area
Repair and service shop—general merchandise	One space per 300 sq. ft. of gross floor area
Self-service storage facility	One space per 10,000 sq. ft. with a minimum of five spaces
Studios—photographic, and instructional	One space per 300 sq. ft. of gross floor area
Tattoo parlor, body piercing	One space per 300 sq. ft. of gross floor area
Other Uses	

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Cemetery, mausoleums, crematory	One space for every four seats in an assembly area
Funeral Homes	One space for every four seats in an assembly area
Radio and transmitting station	One space per 400 sq. ft. of gross floor area
Wireless Antennas and support services	One space per facility
Industrial Uses	
Dry cleaning—commercial laundry plant	One space per 1,000 sq. ft. of gross floor area
Equipment and tool rental	One space per 350 sq. ft. of gross floor area plus one space per 1,000 sq. ft. of outdoor rental area
Fireworks, retail	One space per 300 sq. ft. of gross floor area
Flex Space	One space per 300 sq. ft. of gross floor area
Industrial uses—heavy	One space per 350 sq. ft. of gross floor area plus one space for every company vehicle
Industrial uses—light	One space per 350 sq. ft. of gross floor area plus one space for every company vehicle
Laboratory—medical, research, testing	One space per 300 sq. ft. of gross floor area
Mining/extraction, rock quarry	One space per employee
Outdoor Storage, open air storage	One space per employee
Recycling facility, Refuse disposal	1/employee plus 3
Studio for movie, television, music production	One space per 200 sq. ft. of gross floor area
Warehouse	One space per 1,000 sq. ft. of gross floor area
Agricultural Uses	
Community Garden	Three spaces per acre of gardens
Greenhouses—nurseries, retail	One space per employee plus one space per 300 sq. ft. of gross floor area plus one space per 600 sq. ft. of outdoor sales area
Outdoor storage—agriculture	1/employee plus work vehicles?
Farmer's market	One space per vendor plus one space per 350 sq. ft. of vendor area
Animal Boarding Stables	One space for every six animals boarded

For facilities having bench or booth seating, one seat shall be considered 24 linear inches of a bench or booth.

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TABLE SC-5 MINIMUM PARKING SOUTH CAPE DOWNTOWN DISTRICT				
Applicable Lots	Lot Frontage/Lot Area			Lot Area
	≤75'	>75' but <125'	≥125' but <60,000 s.f.	≥60,000 s.f.
	Minimum Parking (# spaces) (a)			
Residential	1 per unit	1 per unit	1 per unit	1 per unit
Non-residential - restaurant/bar/brewpub(d)	1/500 s.f.	1/400 s.f.	1/100 s.f.	1/100 s.f.
Non-residential - hotel	0.75 per room	0.75 per room	0.75 per room	0.75 per room
Non-residential - other	1/500 s.f.	1/400 s.f.	1/400 s.f.	1/400 s.f.
Parking required on site - residential and non-residential (b)	50%(c)	50%	75%	75%
(a) For parking area sites, minimum parking shall be as provided, less parking credits in accordance with § 2.7.15.13.a.				
(b) Satellite parking shall be provided in accordance with § 2.7.15.D.13.b.				
(c) Lots with lot frontage less than or equal to 50 feet shall not be required to provide on-site parking. Satellite parking shall be provided in accordance with § 2.7.15.D.13.b.				
(d) The minimum parking standard shall not be applied to the area(s) of the building devoted to brewing, bottling, and kegging activities.				

- D. Bicycle parking. Bicycle parking shall be required for all developments of 20,000 square feet or more, in accordance with Table 6.1.7.B. Bicycle parking shall be adjacent to entrances or in a shaded or covered area when one is available. A parking space shall consist of a place for a bike to be secured in a standing position.

Table 6.1.7.B. Bicycle Parking Requirements.

Square Footage of Development	Number of Bicycle Parking Spaces
20,000-50,000	5 spaces
50,001-200,000	10 spaces
200,001 or larger	15 spaces
Multi-Family Developments with 16 or more units	1 space/10 units

- C. Electric vehicle charging stations. Charging stations for electric vehicles shall be required for all development sites of 200,000 square feet of gross floor area or more. One charging station shall

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be required for the initial 200,000 square feet of development and an additional charging station shall be provided for each additional 20,000 square feet over that.

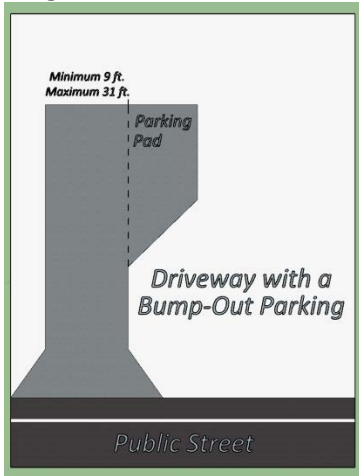
Section. 6.1.8. Miscellaneous parking requirements.

- A. Access to buildings. Parking shall not interfere with ingress-egress doors for stairwells, transformer rooms, elevator machine rooms, trash rooms, or any other use requiring clear access aisles for services.
- B. Marking and identification. All parking and loading spaces other than for single-family detached and duplex dwellings, shall be marked in accordance with the Engineering Design Standards. Off-street parking facilities not clearly evident from a street or alley shall be identified as to location and purpose.
- C. Use of spaces. All off-street parking facilities shall be used solely for the parking of vehicles in operating condition. No automotive repair work except emergency service, no storage of merchandise, and no motor vehicles which are being offered for sale by a business in the development shall be permitted on or within any required off-street parking area. (Note: Review 3.3.6 LUDR)
- D. Surfacing. All off-street parking (spaces and aisles) and drives connecting such areas with the street, including spaces required for serving single-family detached residences or duplexes, shall be surfaced in accordance with the Engineering Design Standards unless an alternative landscaped area is approved for occasional parking as part of a development approval. All parking surfaces shall be maintained in a condition that is safe and free of potholes.
- E. Unpaved parking. Clearly identified, non-paved parking areas may be permitted, only in accordance with this Subsection. Unpaved parking, which is graded and covered with sod to provide a surface that is durable, stable, and will also assist in managing stormwater, dust, and erosion may be provided for up to 50% of the off-street parking requirements for the following uses:
 - 1. Agriculture or farming uses;
 - 2. Cemeteries;
 - 3. Funeral homes, mortuaries, and crematoria;
 - 4. Places of worship;
 - 5. Religious facilities; or
 - 6. Parks and recreation facilities owned by a governmental entity.
- F. Parking on the unpaved areas shall be prohibited on all parcels other than those specifically allowed by this code Section to utilize grass parking. Where parking occurs on unpaved areas, a violation

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may be issued. Resolution of the violation may include providing additional parking spaces, not to exceed the allowed pervious surface requirement for that zoning district, included in Article 4 of this land development code. Diagram 6.1.8.A. below, illustrates how additional parking may be added through a bump-out at a residential dwelling.

Diagram 6.1.8.A Residential drive bump-out.



G. Off-street circulation and maneuvering.

1. Off-street parking facilities for multi-family, industrial, or commercial developments shall provide for on-site vehicle circulation and maneuvering in accordance with the Engineering Design Standards. Backing into the **street** right-of-way shall not be permitted for any uses other than single-family detached residences on a local street.
2. Single-family detached residences which are on a right-of-way classified as a collector or higher classified roadway, and all duplex residences shall be required to install a circular driveway to eliminate the necessity to back into the roadway. See diagrams 6.1.8.B. and 6.1.8.C. for circular driveway examples.

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Diagram 6.1.8.B. Single-family detached circular drive.

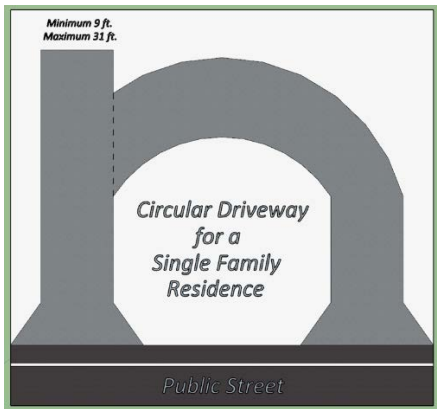
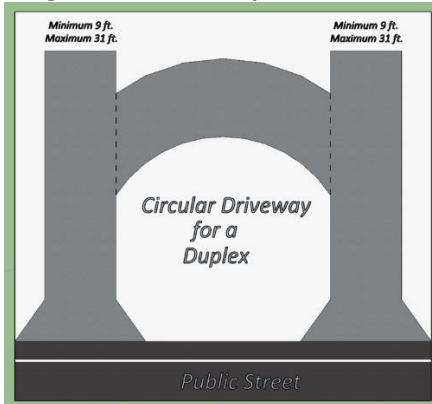


Diagram 6.1.8.C. Duplex circular drive.



H. Drainage. Design and construction of all parking areas shall conform to the requirements of the City of Cape Coral Engineering Design Standards and all applicable South Florida Water Management District requirements for stormwater management. All design and construction shall be such that runoff from the property is intercepted and prevented from entering onto adjoining properties or right-of-way(s) prior to treatment. The developer shall be responsible for obtaining all required permits.

I. Parking along alleys. Parking on sites abutting alleys is allowed provided the following conditions are met:

1. The area of the site abutting the alley is needed to meet the site's minimum parking requirement.
2. The alley is improved, or will be improved, to allow for the movement of vehicles in the alley along the site.
3. Vehicles can be parked in their entirety on the site. No part of any parked vehicle may extend into the alley right-of-way.
4. All parking spaces shall be striped consistent with those standards appearing in the City Engineering and Design Standards.

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13. *Supplemental parking requirements.*

a. *Parking area sites.* Sites located, as of December 1, 2005, within 25 feet, excluding alleys and walkways, of any of those dedicated city parking areas identified in § 2.7.15.D.13.a.(1) below shall be considered "parking area sites". For parking area sites, the following parking and PILOP regulations shall apply:

(1) Each of the following dedicated city parking areas in the Cape Coral CRA is hereby assigned a parking allocation factor as provided in Table SC-8:

TABLE SC-8 DEDICATED CITY PARKING AREA			
Dedicated City Parking Area	Surrounding Blocks and Lots		Parking Allocation Factor
	Lots	Block	
Parking Area 1	1 through 24	62	0.000655
Parking Area 2	1 through 17	63A	0.001040
Parking Area 4	1 through 30	63	0.001515
Parking Area 5	1 through 61	64	0.001501
Parking Area 6	1 through 34	356	0.001572
	1 through 30	357	
Parking Area 7	11 through 14	56A	0.001330
	1 through 11	56B	
	1 through 12	56C	
	1 through 10	G	

(2) For purposes of this subsection, when a "parking credit" must be calculated for a parking area site, such parking credit shall be calculated by multiplying the area of the site (in square feet) by the parking allocation factor related to the dedicated city parking area upon which the site is located. This credit shall be deducted from the minimum parking requirements.

(3) When the area of a parking area site changes, the following shall apply:

(a) In the event the area of a parking area site is increased as the result of the acquisition of property that was not a part of a parking area site as of December 1, 2005, the increase in area that results from such acquisition shall, for purposes of this

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subsection, be treated in the same manner as property, no part of which comprised a parking area site.

(b) In the event the area of a parking area site is increased as the result of the acquisition of property that was a part of a parking area site as of December 1, 2005, any PILOP fees previously paid as the result of the use(s) or structure(s) located on the conveyed property shall be treated in the same manner as any PILOP fees, if any, previously paid by the receiving site provided that the minimum total parking requirements for the conveying site decrease as the result of the conveyance of property. If the minimum total parking requirements for the conveying site do not decrease as the result of the transfer, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the enlarged (receiving) site.

(c) In the event the area of a parking area site is decreased as the result of the conveyance of property that was a part of a parking area site as of December 1, 2005, regardless of whether such conveyance is to another parking area site or to a property that is not a parking area site, then any PILOP fees previously paid in regard to the conveying property shall continue to be applied solely to the conveying property and shall not apply toward the parking requirements of the receiving site unless the minimum total parking requirements for the conveying site decrease as the result of the transfer. If the minimum total parking requirements for the conveying site decrease as the result of the transfer, and the conveying site had previously paid PILOP fees pursuant to this subsection, then any such PILOP fees that are unnecessary to defray the decreased total parking requirements of the conveying site shall be applied toward the parking requirements of the receiving site.

(4) A parking area site is altered, for purposes of this subsection, when any use located on the site is changed, any structure located on the site is modified, or the land area of the site is changed. Although a parking area site shall not be required to provide on-site parking, when such site is altered so that the minimum total parking requirement for the site, pursuant to Table SC-5 contained in § 2.7.15.D.5. is increased, the parking requirement for the site shall be determined in accordance with the following:

(a) Parking area sites that are undeveloped as of December 1, 2005:

(i) A parking area site that is undeveloped as of December 1, 2005, the area of which has not changed and which is being initially developed after December 1, 2005, shall be required to provide the minimum parking that would be required pursuant to Table SC-5 contained in § 2.7.15.D.5. less a parking credit calculated pursuant to § 2.7.15.D.13.a.(2). The site would need to meet the aforesaid parking requirement prior to receiving a certificate of occupancy (for residential uses) or a certificate of use (for non-residential uses). If the land area of the parking area site increases prior to the initial development of the site, then the requirements of this subsection shall apply to the expanded portion of the site (and any structures thereon) as applicable based on factors

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such as whether it was previously developed and/or had previously paid PILOP fees.

(ii) After such a parking area site has been initially developed pursuant to this subsection, any further alteration of the site that would result in an increase to the minimum parking requirement for the site, area of the site, shall require that the site provide the minimum parking that would be required pursuant to Table SC-5 contained in § 2.7.15.D.5. less the parking credit calculated pursuant to § 2.7.15.D.13.a.(2) and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof.

(iii) After the initial development of such a site, if the area of the site increases, any further alteration of the site that would result in an increase to the minimum parking requirement for the site shall require that the site provide the minimum parking that would be required pursuant to Table SC-5 contained in § 2.7.15.D.5. less a parking credit (to which the site would be entitled based on its land area at the time of such further alteration) and any PILOP fee(s) previously paid to offset the parking requirement of the site, including any PILOP fee(s) paid with respect to the expanded area of the site, in accordance with § 2.7.15.D.13.a.(3).

(iv) Alternatively, if, after the initial development of such a site, the area of the site decreases, any further alteration of the site that would result in an increase to the minimum parking requirement for the site shall require that the site provide the minimum parking that would be required pursuant to Table SC-5 less a parking credit and any PILOP fee(s) previously paid to offset the parking requirement of any use(s) or structure(s) located on the area of the site remaining after the decrease(s) in area, in accordance with § 2.7.15.D.13.a.(3).

(b) With respect to parking area sites that are developed and occupied as of December 1, 2005, the following shall apply:

(i) The first time such a site is altered after December 1, 2005, if the alteration would result in an increase in the minimum parking requirement for the site of more than 25% over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for such site as of that date, the site shall be required to provide the minimum parking that would be required pursuant to Table SC-5 contained in § 2.7.15.D.5. less a parking credit calculated as provided in § 2.7.15.D.13.a.(2).

(ii) Alternatively, if such an alteration of the site would result in an increase in the minimum parking requirement for the site of not more than 25% over the amount required for the site for the use(s) and structure(s) located on

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the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for such site as of that date, then the alteration of such site shall require the site to provide the minimum parking required for the site (pursuant to Table SC-5) less the amount attributed to the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for the site as of that date. Further alterations to the site that do not, either singularly or cumulatively, increase the minimum parking requirement for the site by more than 25% over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for such site as of that date, shall require the site to provide the minimum parking required for the site (pursuant to Table SC-5) less the amount attributed to the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the certificate(s) of use in effect for the site as of that date and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area any PILOP fee(s) applicable pursuant to § 2.7.15.D.13.a.(3).

- (iii) If further alterations to a site, cumulatively, increase the parking requirement for the site by more than 25% over the amount required for the site for the use(s) and structure(s) located on the site as of December 1, 2005, as reflected in the certificate(s) of use as of that date (or, for residential uses, the residential occupancy in effect for such site as of that date), then the alteration of such site that would result in the increase by more than 25% shall require the site to provide the minimum parking required for the site (pursuant to Table SC-5) less a parking credit calculated as provided in § 2.7.15.D.13.a.(2), based on the area of the site at the time of the alteration that would result in the more than 25% increase, and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant to § 2.7.15.D.13.a.(3).

- (c) With respect to parking area sites that are developed and unoccupied as of December 1, 2005, the following shall apply: The first time such a site is occupied following December 1, 2005, the site shall be required to provide the minimum parking that would be required pursuant to Table SC-5 contained in § 2.7.15.D.5. less a parking credit calculated by multiplying the area of the site (in square feet) by the parking allocation factor related to the dedicated city parking area upon which the site is located. The site would need to meet the aforesaid parking requirement prior to receiving, for non-residential uses, a certificate of use and, for residential uses, prior to any residential occupation of the structure. If the land area of the parking area site increases following December 1, 2005, but prior to the occupancy of the site, then the requirements of this subsection shall apply to the expanded portion of the site (and any structures thereon) as applicable based on factors such as whether it was previously developed and/or had previously paid PILOP fees.

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(d) If the structure(s) located on any parking area site are demolished, razed, or relocated to a site other than a parking area site, then any subsequent redevelopment of such parking area site shall require the site to provide the minimum parking required for the site (pursuant to Table SC-5) less a parking credit calculated as provided in § 2.7.15.D.13.a.(2), based on the area of the site at the time of the redevelopment, and any PILOP fee(s) previously paid to offset the parking requirement of the site or any part thereof including, for sites that have increased or decreased in area, any PILOP fee(s) applicable pursuant to § 2.7.15.D.13.a.(3). After such redevelopment is completed, any alteration(s) to the site shall be treated, for purposes of determining the parking requirements of the site, in the same manner as alteration(s) of any other developed parking area site under this subsection.

(5) With respect to each dedicated city parking area located in the Cape Coral CRA. the City Council shall, by resolution, identify all sites that would be parking area sites regulated by this subsection and also, for all such sites that are developed as of December 1, 2005, identify the minimum parking requirement for the use(s) and/or structure(s) on the site as of December 1, 2005, as though such sites were within the South Cape Downtown District.

b. *Satellite parking.* For purposes of this subsection, a satellite parking arrangement exists when the minimum total parking (excluding on-site parking) required for a site is to be provided on a site at a location different from the site which will be served by the parking as required in § 2.7.15.D.5. When all or part of the minimum total parking (excluding on-site parking) required for a site is to be satisfied by one or more satellite parking arrangements, such satellite parking arrangements shall comply with the requirements of this subsection as follows:

(1) Except as otherwise provided herein, satellite parking shall be located not more than 1,320 feet from a public entrance to the principal building which contains the use associated with such satellite parking, except that no satellite off-street parking area shall be located on parkway or primary street designations or across Del Prado Boulevard or Cape Coral Parkway from the use it is serving. When the site that contains the use(s) to be served by the satellite parking offers valet parking at all times that such use(s) are open to the public so that valets will transport the vehicles of patrons of such use(s) to the satellite parking site(s) and such valet service is documented in an agreement entered into by the city and the owners of the property to be served by the satellite parking and of the property offering the satellite parking, then the satellite parking site(s) may be located more than 1,320 feet from a public entrance to the principal building containing the use served by such valet parking. The aforesaid agreement shall be in addition to the agreement required by § 2.7.15.D.13.b.(4) and shall be recorded in the public records of Lee County at the sole expense of the owner(s) of the property to be served by the valet parking. Upon request by the owner of the property to be served by a proposed satellite parking location, the City Manager, or the City Manager's designee, may allow satellite parking that does not include valet parking to be located more than 1,320 feet from a public entrance to the principal

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building which contains the use associated with the proposed satellite parking and/or to be located across Del Prado Boulevard or Cape Coral Parkway from the use it is serving, if the City Manager, or the City Manager's designee finds that the proposed satellite parking would not be detrimental to the public health, safety, and welfare of the persons utilizing it. Factors which shall be considered by the City Manager, or the City Manager's designee in making this determination include, but are not limited to, the following: the proximity of the proposed satellite parking to a signalized intersection, the availability of pedestrian crosswalks or other pedestrian-oriented features at any intersections and any other locations between the proposed satellite parking and the use(s) to be served by it, whether the satellite parking is to be utilized by employees only or by patrons of the use(s) to be served, and the availability of any complementary and/or supplementary services to such parking, such as trolley or tram systems that would provide transportation for the public to and from the satellite off-street parking area and the use(s) to be served. If the City Manager, or the City Manager's designee approves satellite parking at a distance of more than 1,320 feet and/or across Del Prado Boulevard or Cape Coral Parkway, the City Manager, or the City Manager's designee may impose conditions on such satellite parking that would be reasonably designed to mitigate any negative effects from such approval. Examples of such conditions include, but are not limited to, the requirement that a satellite off-street parking area be clearly identified for only employee parking, the requirement that a pedestrian walkway between the off-street parking area and the use(s) it serves be covered so as to protect pedestrians from the elements, and that any supplementary and/or complementary services be continued so long as the satellite parking is being used.

(2) The satellite off-street parking area and the site which contains the use associated with such satellite parking shall be shown on a site plan, development plan, or other equivalent plan. The submitted plan shall show the pedestrian connection(s) between the two sites and shall demonstrate that all pedestrian connections have sidewalks, or other paved walkways, dedicated solely to pedestrians. In addition, the plan shall demonstrate that the distance between the sites is not more than 1,320 feet when measured from a public entrance to the principal building (on the site to be served by the satellite parking) to the closest point on the proposed satellite parking site.

(3) Satellite parking spaces on the off-site lot shall only be counted if they are above and beyond the minimum parking requirement for uses on the off-site lot.

(4) The owner of the off-site lot of land (and, the owner of the land intended to be served by such off-site parking, if different than the owner of the lot to be used for parking) shall enter into an agreement with the city, which shall be recorded in the public records of Lee County, Florida, at the expense of the owner of the land intended to be served by the off-site parking.

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(5) The satellite off-street parking area shall never be sold or transferred except in conjunction with the sale of the lot served by the off-site parking facilities unless:

(a) The lot to be sold or transferred will continue to be used as provided in the off-site parking agreement and the new owner or transferee executes a consent to assume and to be bound by the obligations of the owner of the lot used for parking as provided in the agreement; or

(b) A different lot complying with the all provisions of the City of Cape Coal Code of Ordinances and Land Use and Development Regulations and subject to a recorded off-site parking agreement as specified herein is substituted for the lot of land subject to the off-site parking agreement; or

(c) The lot being served by the off-site parking no longer requires the parking as evidenced by a written statement executed by the parties executing the off-site parking agreement and as approved by the City Manager, or the City Manager's designee. The aforesaid statement shall be recorded in the public records of Lee County at the expense of the owner of the lot formerly being served by the off-site lot.

CHAPTER 2. TRUCK AND VEHICLE PARKING

Section 6.2.1 Parking regulations for single-family residential zoning districts (list).

A. It shall be unlawful for any owner, agent, operator, or person in charge of a commercial vehicle or trailer to park, store, or keep such vehicle or trailer on the pavement or in the swale of any public street within any single-family residential district in the city. Furthermore, it shall be unlawful for any owner of privately owned real property in any residential district in the city to park on, cause to be parked on, or allow to be parked on such property any commercial vehicle or trailer, except as otherwise provided herein.

B. The prohibitions of § 6.2.2 shall not apply to the following:

1. Temporary parking of any commercial vehicle or trailer on private property or in the adjoining swale of any public street in a residential district where construction for which a current and valid permit has been issued by the city is underway on the property and the permit is properly displayed on the premises. Provided that such trailer or commercial vehicle is only on the real property at the time the construction is actually physically occurring. Nothing in this subsection is intended to require a permit where none is otherwise required or to allow a trailer or commercial vehicle to be parked on private property or in the adjoining swale of any public street within a residential district when construction is not actually physically occurring on the private property.

2. Deliveries by tradespeople or the use of commercial vehicles or trailers in making service calls.

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- 589
- 590 3. Temporary parking of a commercial vehicle or recreational vehicle while such vehicle is being
- 591 used by the operator for travel to and from the residential property for personal reasons of a
- 592 temporary nature such as for a meal or to visit or serve an ill person. Such temporary parking
- 593 shall not, however, exceed a total of two hours duration during any 24-hour time period.
- 594
- 595 4. Emergency parking of a disabled commercial vehicle, recreational vehicle, or trailer. However,
- 596 any such commercial vehicle, recreational vehicle, boat, or trailer shall be removed from the
- 597 residential district within 24 hours by wrecker towing or other available means regardless of
- 598 the nature of the emergency.
- 599
- 600 C. Notwithstanding the prohibitions in § 6.2.2 any combination of the following motor vehicles or
- 601 trailers may be parked in single-family residential districts, on a parcel improved with a single-family
- 602 residence:
- 603
- 604 1. Any light van, sports utility vehicle (SUV), pickup truck, jeep, motorcycle, automobile, or similar
- 605 type of motor vehicle which is not a commercial vehicle. Furthermore, light vans, sports utility
- 606 vehicles (SUVs), pickup trucks, jeeps, motorcycles, automobiles, or similar types of motor
- 607 vehicles which would otherwise be considered to be "commercial vehicles" only because
- 608 commercial lettering has been affixed to them may be parked outside of a permitted garage or
- 609 carport provided that all commercial lettering has been concealed by a cover of a type that is
- 610 applied directly to the surface of the motor vehicle or attached to the vehicle in such a manner
- 611 that the vehicle can be safely driven on the public streets with the cover in place. If more than
- 612 one such cover is attached to or is located on a vehicle, then all of such covers located on or
- 613 attached to such vehicle shall be the same color. For purposes of this section, covers located so
- 614 as to impair the vision of the driver of the vehicle or insecurely mounted so as to present a
- 615 danger of falling off the vehicle while it is being driven shall be presumed to be insufficient to
- 616 bring the commercial vehicle within the exemption provided by this subsection. Furthermore,
- 617 this exemption shall not apply to any motor vehicle that is considered to be a "commercial
- 618 vehicle" under this section by virtue of the nature of its vehicle type and not solely because
- 619 commercial lettering has been affixed to it regardless of whether such vehicle or any lettering
- 620 affixed to it has been covered in part or in full of such vehicle is parked outside of the confines
- 621 of a permitted garage or carport.
- 622
- 623 2. Any trailer or motor vehicle described in § 6.2.1.G which is a commercial vehicle, provided that:
- 624
- 625 a. Such commercial vehicle or trailer is parked in a permitted garage or carport;
- 626 b. When parked in a garage or carport, no part of such commercial vehicle or trailer may
- 627 project horizontally beyond the roofline of the garage or carport; and
- 628 c. When parked in a carport, such commercial vehicle or trailer is screened on three sides.
- 629
- 630 D. No vehicle for human habitation shall be kept or parked on premises zoned for residential purposes
- 631 or on adjoining public rights-of-way, except when parked entirely within the confines of a garage or
- 632 carport or in accordance with the following:
- 633
- 634 1. Non-resident. Vehicles for human habitation when used for transportation of visitors to this city
- 635 to visit friends or members of the visitors' family residing in this city may, upon obtaining a

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permit (for which a charge shall not be made) from the Police Department, be parked upon the premises of the visited family for a period not exceeding ten days. The permit shall be affixed to the vehicle in a conspicuous place on the street side thereof. The City Manager may, for good cause shown, authorize the issuance of a second consecutive free permit not to exceed ten days. An additional permit for the parking of such vehicle will not be issued until after the expiration of 15 days after termination of the last prior permit. For purposes of this section, a person who owns or leases property in the City of Cape Coral shall not be deemed to be a "non-resident" when he or she parks a vehicle for human habitation on property that he or she owns or leases even if such person does not "reside" on the subject property.

2. Resident. When a vehicle for human habitation is owned or leased by the person who also owns or leases the residential property on which such vehicle is to be parked, such vehicle for human habitation may be parked upon the premises of the resident for a period not exceeding 72 hours for the purpose of loading and cleaning provided that a permit is first obtained from the city's Police Department. A vehicle for human habitation may be parked upon the premises of the resident for the purpose of unloading after a trip for a period of 72 hours provided that a permit is first obtained from the Police Department. There shall be a minimum of a 48-hour interval between the expiration of one permit and the issuance of another. The permit for each such period shall be affixed to the vehicle in a conspicuous place on the street side thereof. The city shall not charge a fee for the permits to park a vehicle for human habitation upon the premises of the resident as required by this section.

3. Pop-up campers. A pop-up camper may be parked, only in a closed or folded condition, in the rear yard of a residential lot improved with a principal residential building. For purposes of this paragraph, a "pop-up camper" shall consist of a non-motorized trailer which includes, or on which is mounted, a tent-like enclosure (but such enclosure may be made of canvas or similar material, solid materials, or any combination thereof) to be used for camping purposes, which enclosure opens or expands or unfolds to accommodate temporary occupancy and which closes or folds up into itself in such a way as to be unusable for occupancy and to be no more than 55 inches in height when measured from ground level.

E. Parking of passenger cars or sports utility vehicles (SUVs) with commercial advertising signs setting forth the name of the business, its address, business telephone number, and type of business (e.g., realtor, painter, etc.) thereon in residential areas outside the confines of a garage or carport is permitted so long as the home (residential) address is not shown thereon.

F. The following are exempt from the provisions of this section:

1. Commercial vehicles or trailers in actual use or moving directly to or from the location of actual use, which are owned or leased by:

- a. The city for the accomplishment of a municipal purpose;
- b. A contractor or subcontractor under agreement with the city to accomplish a municipal purpose; or
- c. A public utility operating within the city, or a contractor or subcontractor under agreement with such public utility; for the installation, maintenance, adjustment, or repair of or to a public utility facility.

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However, no towing company, or other business entity, or any of its officers, employees, and agents shall be exempt from the provisions of this ordinance solely because the towing company or other business entity has been employed by the city to provide towing or other services.

2. Commercial vehicles owned by or leased by governmental entities, including the city, Lee County, or the State of Florida which are parked in residential districts on a parcel improved with a permitted structure when such vehicles are lawfully in the possession of an authorized agent or employee of the governmental entity. This category shall include police or sheriff's vehicles which are permitted to be driven to residences of authorized employee(s) of such law enforcement entities.

G. In applying the terms of this section, the following rules of construction shall apply:

1. Any motor vehicle or trailer which is partially built or in the process of conversion shall be included under the most stringent definition that can be applied.
2. In case of doubt as to the proper classification of a specific vehicle, a determination by the state's Department of Highway Safety and Motor Vehicles shall be controlling. The body description and classification on the motor vehicle certificate of title shall be *prima facie* evidence of such determination.

Section 6.2.2 Parking regulations for property zoned multi-family residential.

The restrictions for multi-family residential shall be the same as for single-family residential except that the prohibitions contained in § 6.2.2A.1. shall not apply to the following commercial vehicles when parked on properties zoned multi-family residential:

- A. Pickup trucks from which the cargo boxes have been removed;
- B. Pickup trucks or light vans containing commercial rack(s) regardless of whether such rack(s) are visible from the street or from abutting residential property; and
- C. Light vans, sports utility vehicles (SUVs), pickup trucks, jeeps, motorcycles, automobiles, or similar types of motor vehicles which would otherwise be considered to be "commercial vehicles" only because commercial lettering has been affixed to them.

Section 6.2.3 Parking regulations for property zoned industrial and agricultural.

Property zoned industrial and agricultural shall have no restrictions placed upon it as to the parking of trucks or unoccupied vehicles for human habitation, except as otherwise regulated within a recreational vehicle park, or as a condition of special exception or a planned unit development.

Section 6.2.4 Hotel and motel parking provisions.

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Hotels and motels are considered business enterprises, therefore, trucks, trailers, buses, and other commercial vehicles, as well as vehicles for human habitation may be parked on the premises of such businesses. Further, the permit requirement specified in § 3.11.2 does not apply. Such vehicles must not be parked in streets, alleys, or other rights-of-way.

Section 6.2.5 Boats and boat trailers.

It shall be unlawful for any person to park, store, keep, maintain, or permit to be parked, stored, kept, or maintained in front or side yard of a single or multi-family residence, or on a vacant lot in a residential area, any boat or empty boat trailer. A boat, a boat on a trailer, or an empty boat trailer may be parked on the rear yard provided the same is not allowed to fall into a state of disrepair. If grass or weeds are allowed to grow around or under it to a height exceeding 12 inches, then it may be declared a nuisance and the owner charged accordingly. An empty boat trailer may be parked at a launching site during the period of time that the boat is launched therefrom for a single voyage and while in the process of loading or unloading the boat or trailer. A boat, empty boat trailer, or a boat on a trailer may be parked entirely within the confines of a garage or carport meeting the requirements of this ordinance.

Section 6.2.6 Vacant lots.

It shall be unlawful for any person to park, store, keep, maintain at any time, or permit to be parked, stored, kept, or maintained at any time on any unimproved property in any zoning district any motor vehicle, boat, or trailer of any kind, type, or description, including any boat and trailer in combination, except that this prohibition shall not apply to any unimproved property on which temporary parking of such motor vehicles, boats, or trailers has been authorized by the property owner(s), in writing, and approved by the City Manager in association with a special event that has been approved by the City Manager. Throughout this subsection, the term **TRAILER** shall be deemed to mean and include both a boat mounted on a trailer and the trailer itself.

A. In the event a motor vehicle, boat, or trailer is parked, stored, kept, or maintained on an unimproved property in any zoning district at any time, a City Code Enforcement Officer shall place a written notice of violation on the vehicle, boat, or trailer indicating that it is in violation of this section and that it must be removed within three calendar days from the date of the notice or it will be subject to removal by the city. The Code Enforcement Officer shall make every reasonable attempt to ascertain the owner of the vehicle, boat, or trailer and the owner of the real property, and shall notify such owner(s) with a written notice delivered by mail or personal service at their current address, last known address, or the address appearing on the certificate of title for the vehicle, boat, or trailer. The notice placed on the vehicle, boat, or trailer and all notices provided to the owners or apparent owners of the vehicle, boat, trailer, and the land shall advise of the possible appeal provided for in the following subsection B.

B. Within the three-calendar day period specified in the aforesaid notice, the owner of the vehicle, boat, trailer, or the owner of the real property may appeal to a Special Master utilized by the city to conduct hearings concerning violations involving vehicle(s), boat(s), or trailers) parked, stored, kept, or otherwise maintained on vacant real property. The appeal shall be filed at the office of the City Manager, must attach a copy of the notice of violation appealed, and must include the name of the person filing the appeal and an address at which such person may be served notice of the hearing on the appeal. The hearing on the appeal shall be conducted the same as a code

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enforcement hearing for a case initiated by a Code Enforcement Officer pursuant to §§ 2-85 through 2-92 of the Code of Ordinances of the City of Cape Coral, Florida. The Special Master shall determine the validity of the violation and may for good cause extend the time for compliance or removal. If such an appeal is instituted, no removal of the vehicle, boat, or trailer shall be required until the appeal has been dismissed or finally determined by the Special Master with a finding of a violation.

- C. If no appeal is made or if an appeal is made but dismissed and the vehicle, boat, or trailer remains in violation after the three calendar day period, or if an appeal is resolved with a finding of a violation and the vehicle, boat, or trailer is not removed within whatever time period is allowed by the Special Master, the City Code Enforcement Manager shall cause such vehicle, boat, or trailer to be towed from the property and thereafter stored and disposed of in accordance with applicable state law or city ordinance. The Special Master may also assess fines and costs; the same as for any code enforcement violation.

The city shall not be responsible for the towing charges resulting from the removal of the vehicle, boat, or trailer from the property. Instead, the owner(s) of the vehicle, boat or trailer shall be responsible for all such charges.

- D. The authorization in this section for the towing of vehicles, boats, or trailers parked, kept, stored, or otherwise maintained on unimproved property shall be construed as supplementary to any other means of enforcement available to the city and shall not be construed so as to negate the authority of the code enforcement Special Master to hear and adjudicate appropriate cases.

- E. The City Manager shall at least annually recruit qualified persons to serve as Special Masters. The City Council shall, on an annual basis, appoint at least one qualified person to serve as the Special Master and at least one qualified person to serve as an alternate Special Master in the event the Special Master is unable to attend a meeting. Applicants for the Special Master position must be attorneys. The appointment(s) shall be in the sole discretion of the City Council. However, any person appointed to the position of Special Master pursuant to this section must be an attorney duly licensed by the Florida Bar Association to practice law in the State of Florida.

- F. Each Special Master shall serve for a term of one year though Special Masters may be reappointed for consecutive one-year terms. Although appointed for one-year terms, Special Masters shall be subject to removal, with or without cause, from their positions at any time during their term by the City Council in its sole discretion. Special masters shall not be considered to be city employees though, if authorized by the City Council, they may receive compensation for their service and also may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the City Council.

- G. The Special Master shall convene hearings concerning appeals of alleged violations of this section within a reasonable time from the date the appeal request is made. Minutes shall be kept of all hearings by the Special Master and all hearings and proceedings shall be open to the public. The City Manager shall provide clerical and administrative personnel as may be reasonably required by the Special Master for the proper performance of his or her duties.

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- H. The Special Master shall proceed to hear the cases on the agenda for that day. If the alleged violator has been duly notified of the hearing, the hearing may proceed in the absence of the named violator. All testimony shall be under oath or affirmation and shall be recorded.

The Special Master shall take testimony from the Code Enforcement Officer, the alleged violator, and any other witnesses who have personal knowledge concerning the alleged violation. Documentary evidence may be presented in support, of or in defense of the charge. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. All other evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in the courts of Florida. Hearsay evidence may be introduced and used for supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding by the Special Master unless it would be admissible over objections in a civil action. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern said proceedings.

- I. In order to render an order finding the alleged violator guilty and denying the appeal, the Special Master must find that a preponderance of the evidence indicates that the named violator was responsible for the violation as alleged.
- J. At the conclusion of the hearing, the Special Master shall issue an order containing findings of fact, based on evidence of record, and conclusions of law.

Section 6.2.7 Vehicles and trailers for sale.

It shall be unlawful for any person to park, store, keep, maintain at any time, or permit to be parked, stored, kept, or maintained on any unimproved property in any zoning district, or outside of a completely enclosed building on any improved property in a **W, C-1, C-3, P-1 or I-1** zoning district, any motor vehicle or trailer of any kind, type, or description, including any boat mounted on a trailer, which is being displayed for sale, hire, or rental except as provided in subsections I., J. and K. below. Throughout this subsection, the term "trailer" shall be deemed to mean and include both a boat mounted on a trailer and the trailer itself.

- A. In the event a motor vehicle or trailer is displayed for sale, hire, or rental in violation of this subsection .8, City Code Enforcement Officer(s), law enforcement officer(s), or such other city employee(s) as may be designated by the City Manager, are authorized to cause such vehicle or trailer to be immobilized or towed from the property to a garage or other place of safety, and thereafter disposed of in accordance with applicable state law or city ordinance. The city shall not be responsible for the towing charges resulting from the removal of the vehicle from the property. Instead, the owner(s) of the vehicle shall be responsible for all such charges. Immobilization and towing shall be accomplished in accordance with the following subsections B. through H.
- B. A motor vehicle or trailer parked in violation of this section may be immobilized with a "wheel lock," "boot," or other suitable device as long as a notice of violation is placed by the Code Enforcement Officer on the vehicle or trailer indicating all of the following:

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1. That the vehicle or trailer is in violation of this section and that it must be removed from the property within ten calendar days from the date of the notice or it will be subject to removal by the city;

2. That the notice of violation may be appealed as provided in the following subsection D.;

3. That the wheel lock, boot, or other immobilization device will be removed from the vehicle or trailer upon the posting with the city of a \$200 bond, in the form of cash, certified check, or surety bond; and

4. The name of the city official or department with which such bond must be posted and the street address thereof.

C. The Code Enforcement Officer shall make every reasonable attempt to ascertain the owner of the motor vehicle or trailer and the owner of the real property on which it is unlawfully parked, and to provide such owner(s) with a copy of the written notice of violation placed on the vehicle or trailer, such copy to be delivered by mail or personal service at their current address, last known address, or the address appearing on the certificate of title for the vehicle.

D. Within the ten-calendar day period specified in the aforesaid notice, the owner of the vehicle or trailer or the owner of the real property may appeal to a Special Master appointed under § 6.2.7E. of this chapter. The appeal shall be filed at the office of the City Manager, must attach a copy of the notice of violation appealed, and must include the name of the person filing the appeal and an address at which such person may be served notice of the hearing on the appeal. The hearing on the appeal shall be conducted the same as a code enforcement hearing for a case initiated by a Code Enforcement Officer pursuant to §§ 2-85 through 2-92 of the Code of Ordinances of the City of Cape Coral, Florida. The Special Master shall determine the validity of the violation and may for good cause extend the time for compliance or removal. If such an appeal is instituted, no removal of the vehicle or trailer shall be required until after said appeal has been dismissed or finally determined by the Special Master with a finding of a violation of this subsection .8.

E. If no appeal is made or if an appeal is made but dismissed and the vehicle or trailer remains in violation after the ten calendar day period, or if an appeal is resolved with a finding of a violation of this subsection and the vehicle or trailer is not removed within whatever time period is allowed by the Special Master, the City Code Enforcement Manager shall cause such vehicle to be towed from the property and thereafter stored and disposed of in accordance with applicable state law or city ordinance. The Special Master may also assess fines and costs, the same as for any code enforcement violation.

The city shall not be responsible for the towing charges resulting from the removal of the vehicle from the property. Instead, the owner(s) of the vehicle shall be responsible for all such charges.

F. The authorization in this subsection .8 for the towing of vehicles and trailers unlawfully displayed for sale, hire, or rental shall be construed as supplementary to any other means of enforcement available to the city and shall not be construed so as to negate the authority of the Code Enforcement Special Master to hear and adjudicate appropriate cases.

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- G. The provisions of § 6.2.7.E. through J. above, regarding Special Masters and Special Master hearings, shall apply equally with regard to this § 6.2.8.
- H. Code Enforcement Officer shall be notified, and the wheel lock, boot or other immobilization device shall, as soon as practicable, be removed from the vehicle or trailer. If no appeal of the violation is timely filed, or if an appeal is filed and is dismissed, the bond shall be forfeited to the city to cover the cost of inspection, notice of violation, and immobilization of the vehicle or trailer. If an appeal is filed and ultimately results in a finding by the Special Master that no violation of this subsection .8 occurred, the bond shall be returned to the person who posted it. If an appeal is filed and ultimately results in a finding by the Special Master that a violation of this subsection .8 occurred, the bond shall be applied to any fines and costs assessed against the violator by the Special Master.
- I. If a motor vehicle being displayed for sale, hire, or rental is parked by the owner outside of a completely enclosed building in a designated parking space on any improved property in a **W, C-1, C-3, P-1 or I-1** zoning district, while the owner of the vehicle is attending or participating in activities or is being treated or served by or is shopping at a facility located on such property, the motor vehicle and its owner shall not be in violation of this subsection .8. However, the leaving of any such vehicle on the same property for a period of eight consecutive hours shall create a rebuttable presumption that the owner is not attending or participating in activities or is being treated or served by or is shopping at a facility located on such property and that the motor vehicle and its owner are in violation of this subsection .8.
- J. This subsection .8 shall not apply to any motor vehicle or trailer offered for sale on property developed and used for a licensed business which includes the sale of such vehicles or trailers or to any motor vehicle or trailer while it is being repaired on property developed and used for a licensed business which includes the repair of such vehicles or trailers.
- K. This subsection .8 shall not apply to motor vehicles or trailers offered for sale on any property pursuant to a City Council special event approval.

Section 6.2.8 Exemptions.

- A. The provisions of this section shall not apply to vehicles parked on the premises of churches, clinics, schools, child care facilities, assisted living facilities, public libraries, public buildings, public and club swimming pools, private clubs, golf courses, utilities, hotels and motels, and parks and recreational areas, while the persons transported thereby are attending or participating in activities or being treated or served thereat, nor to buses, trucks or trailers parked at any time in a space prepared or designated therefor on said premises, if such vehicles are used or operated by or for the operation of the places or institutions designated, except that such vehicles cannot be used for residential purposes.
- B. The provisions of this section shall not apply to vehicles parked on unimproved or vacant lots within the boundaries of the downtown community redevelopment area, provided the following requirements are met:
1. The unimproved or vacant property must be zoned for commercial use and must be immediately adjacent to the business premises for which parking is being provided. For

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purposes of this section, the phrase **IMMEDIATELY ADJACENT** shall mean sharing all or part of a property line with the business premises or directly across a street or alley from the business premises, provided that the width of such street or alley is 50 feet or less and provided that all or part of the unimproved or vacant property lies within an extension of the property lines of the business premises across the street or alley.

2. If the vacant property which will be utilized for parking is not owned by the same person or entity as the developed commercial property it is intended to serve, the owner of the developed commercial property must have a bona fide lease for the adjacent vacant or unimproved property.
3. Parking on the vacant or unimproved property shall be limited to only patrons of the adjacent business and only during the hours that such business is in operation. The vacant or unimproved property shall be posted with a sign that states the foregoing two restrictions.

Section 6.2.9 Authority to signpost designated areas.

The City Manager shall have the authority to post signs designating areas of regulated or restricted parking as provided by F.S. §§ 316.006 and 316.008 (1973) or other applicable laws.

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CHAPTER 1. GENERAL PROVISIONS

Section 7.1.1. Purpose and Intent (SAME)

This article provides minimum standards to safeguard life, safety, property, and public welfare by regulating size, construction location, electrification, operation, and maintenance of all signs and sign structures exposed to public view. These standards are content-neutral and regulate based on the form and not the content of signs. The visual appearance and traffic safety of the city cannot be achieved by measures less restrictive than the procedures and requirements of this section.

Section 6.1.2. Scope (SAME)

This article shall control the regulation of signs and other outdoor displays. If any part of this article conflicts with any other codes adopted by the city, the most restrictive provision shall apply.

Section 6.1.3. Compliance with Codes and Ordinances (SAME)

No sign shall be erected or maintained in the city, except in accordance with the provisions of this article. All signs erected, installed, or located in the City of Cape Coral shall conform to all requirements of the National Electrical Code, as revised, the Florida Building Code, this article, and other applicable law.

Section 6.1.4. Substitution (SAME)

It is not the purpose of this article to regulate or control the copy, content, or viewpoint of signs. Nor is it the intent of this article to afford greater protection to commercial speech than to non-commercial speech. Any sign, display, or device allowed under this article may contain, in lieu of any other copy, any otherwise lawful non-commercial message that complies with all other requirements of this article. The non-commercial message may occupy the entire sign area or any portion thereof, and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to non-commercial or from one non-commercial message to another, as frequently as desired by the sign's owner, if the sign is not prohibited and the sign continues to comply with all requirements of this article.

Section 6.1.5. Severability (SAME)

- A. Generally. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article.
- B. Severability where less speech results. This subsection shall not be interpreted to limit the effect of Section 6.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. The City Council specifically intends that severability shall be applied to these sign regulations even if the result would be to allow less speech in the city, whether by subjecting currently exempt signs to permitting or by some other means.
- C. Severability of provisions pertaining to prohibited signs. This subsection shall not be interpreted to limit the effect of Section 6.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. The City Council specifically intends that severability shall be applied to **Section 6.2.1** of this article, "Prohibited signs," so that each of the prohibited sign types listed in that section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.

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- D. Severability of prohibition on off-premises signs and commercial signs. This subsection shall not be interpreted to limit the effect of Section 13.1.5.A above, or any other applicable severability provisions in the code or any adopting ordinance. If any, or all, of this article or any other provision of the code is declared unconstitutional or invalid by the final and valid judgment of any court of competent jurisdiction, the City Council specifically intends that that declaration shall not affect the prohibition of off-site signs in Section 6.2.1 of this article.

Section 6.1.6. Definitions (MOVED)

Article 13 contains definitions as they relate to this article.

Chapter 2. Administration

Section 6.2.1. Prohibited Signs (MINOR CHANGE)

The following signs are prohibited:

- A. Abandoned signs;
- B. Animated signs, except electronic message centers, electronic laser, video, or digital display signs in which the messages change at intervals of two seconds or greater in duration, provided such signs comply with the requirements of Section 6.4.2;
- C. Back Lit Awning Signs;
- D. Unless allowed under Section 6.2.2 of this article, signs located on public property or rights of way or attached to trees or utility poles, other than by, or with the permission of, the owner of the public property or right-of-way;
- E. Signs attached to fences on improved, non-residential property; however, this prohibition shall not extend to signs attached to recreational fences around activity fields, playgrounds, or playing fields (such as football fields, baseball diamonds, etc.) located in public parks owned and operated by one or more governmental entities and where the signs:
 - 1. Are only visible from inside the park, or
 - 2. If visible from outside the park, face the inside of the park;
- F. Figure structured signs;
- G. Obscene signs;
- H. Off-site signs;
- I. Parasite signs;
- J. Projected image signs;
- K. Portable signs;
- L. Roof signs;

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M. Special event signs, except with special event permit; and

N. Vehicle signs;

Section 6.2.2. Signs in the Public Right of Way (SAME)

A. Signs allowed in the public right-of-way. No signs shall be erected, installed, or located in the public right-of-way or shall project over the public right-of-way, except permanent signs of the following type(s):

1. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, announce public events, and direct or regulate pedestrian or vehicular traffic.
2. Signs that are placed within or on structures that are public service related, including, but not limited to, bus stop signs, bench/shelter signs, and other informational signs. These structures shall be erected by or on behalf of a public transit or communications company or the city. The location of these structures and the character, size, content, nature, and design of signs on such structures shall be approved by the city through a contract or other agreement approved by the City Council prior to the erection of such structures or the installation of such signs. If such structures cannot be in the public right-of-way as the result of safety factors, right-of-way constraints, or other factors or if it is more practicable to locate such structures on a site other than public right-of-way, the structure may be placed on private property provided that prior written consent is obtained from the property owner or his or her authorized agent.
3. Informational signs of a public utility regarding its poles, lines, pipes, or facilities.
4. Development identification signs in conformity with <<insert reference>>
5. Directional signs in conformity with <<insert reference>>
6. Non-commercial signs in conformity with <<insert reference>

B. Removal and forfeiture of unauthorized sign in the public right-of-way. The city shall have the right to remove from the public right-of-way any sign which is erected, installed, or located in such public right-of-way and which does not conform to the requirements of this article. Such signs shall be deemed to have been forfeited to the city and the city shall have the right to dispose of such signs as it sees fit. In addition to other remedies, the city shall have the right to recover from the owner of such sign or the person responsible for placing the sign in the public right-of-way all costs associated with the removal or disposal of the sign.

Section 6.2.3. Activities Exempt from Permitting (OLD – SEPARATED OUT)

The following types of activities are exempt from the permitting requirements of this article:

- A. Changing the advertising copy, announcement, or message on a marquee or changeable copy sign board so designed to alter such copy; subject to any restrictions in this article, including but not limited to frequency limitations;
- B. Cleaning, painting, or electrical or comparable general maintenance or repair of a sign that does not alter any regulated feature of such sign; and
- C. Changing the message or locating official public notices or traffic control signs.

Section 6.2.4. Requirements Applicable to All Signs (SAME)

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- 152
- 153 A. Computation of sign area. The area of a sign shall be measured from the outside edges of the sign or the sign
- 154 frame, whichever is greater, excluding the area of the supporting structures provided that the supporting
- 155 structures are not used for advertising purposes and are of an area equal to or less than the permitted sign
- 156 area. Supporting framework and bracing which are incidental to the display itself shall not be included in the
- 157 computation of the area unless, by the nature of their design, they form a continuation of the sign.

158

159 <<INSERT GRAPHIC>>

- 160 1. The area of a multi-faced sign shall be computed on one face in the same manner as the sign area of an
- 161 individual sign, provided that the faces of the sign are not separated at any point by more than 18 inches.
- 162 If the faces of a multi-faced sign are separated at any point by more than 18 inches, then each face
- 163 constitutes a separate sign.

164

165 <<INSERT GRAPHIC>>

- 166 2. Where individual characters are used without a supporting panel, the overall dimensions from the
- 167 beginning of the first character to the end of the last character in the longest line and from the top of the
- 168 uppermost character to the bottom of the lowermost character shall be regarded as the extreme
- 169 dimensions in calculating the overall sign area of the sign.

170 <<INSERT GRAPHIC>>

- 171
- 172 B. Computation of height. The vertical height of a freestanding sign shall be computed from the established mean
- 173 grade of the development site to the highest component of the sign or supporting framework, whichever is
- 174 higher. The maximum vertical height of a building mounted sign shall not exceed the roof line of the structure.
- 175 <<INSERT GRAPHIC>>

- 176
- 177 C. Location of signs on property.

- 178
- 179 1. Setbacks. The distance of a sign from a property line, right-of-way, or other point shall be computed by
- 180 measuring a perpendicular line from the foremost part of the sign to the ground and then measuring from
- 181 that point to the nearest point of the property line, right-of-way, etc.
- 182
- 183 2. Distance between freestanding signs. A minimum distance of 25 feet shall be maintained between
- 184 freestanding signs regardless of whether such signs are on one site or whether they are located on adjacent
- 185 sites.
- 186
- 187 3. Location. No sign may project beyond the property line(s) of the property on which the sign is located,
- 188 except that sign(s) may be flush-mounted to the walls of buildings which are constructed with a zero setback
- 189 from the property line. Except as otherwise provided herein, signs shall be located on the same site on
- 190 which the advertised goods or services are available. No part of any banner, sign, flag, or flagpole shall be
- 191 hung, attached, or erected in any manner as to project into the right-of-way.

- 192
- 193 D. Illumination. Signs may be illuminated by any method not prohibited by this article provided that any light
- 194 source shall be shielded in such a manner as to prevent direct rays of light from being cast into an occupied
- 195 residence, hotel or motel room, a commercial business, or at any pedestrian traveling upon a street or sidewalk
- 196 or any vehicle traveling upon a public street.

197

198 **Section 6.2.5. Maximum Total Sign Area Per Site (SOME CHANGE)**

199

- 200 A. Residential uses in residential zoning districts. Except for those signs identified as permitted, no signs are
- 201 allowed on sites containing residential uses in residential zoning districts. Any sign located on a residential site
- 202 in a residential zoning district shall comply with the provisions for such sign(s).

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- B. Non-residential uses in all zoning districts. Except as otherwise provided in this chapter, the number of building signs located on property lawfully used for non-residential purposes shall not be limited so long as the cumulative total sign area (in square feet) of all such signs, except exempt signs, does not exceed the building sign allowance for the property. The allowable building sign area (in square feet) of all signs, except exempt signs, erected, installed, or located on a site lawfully containing a non-residential use in any zoning district shall be computed as follows:

1. Building mounted signs.

- (1) If a building contains more than one floor or story, the dimension of the primary side of the building shall be determined by measuring (in linear feet) the overall width of the first floor or story of the building on the side that faces the front lot line and the sign allowance for each business establishment or other entity occupying the building shall be shared by such business establishments or other entities as determined by the property owner based on the frontage of the building.

<<INSERT GRAPHIC>>

- (2) If a building contains more than one business establishment or other entity, but the exterior of the building has not been subdivided into units, the sign allowance for each business establishment or other entity occupying the building shall be shared by such business establishments or other entities as determined by the property owner based on the frontage of the building.

<<INSERT GRAPHIC>>

- (3) If all or part of the exterior of a building has been subdivided into two or more fully enclosed units capable of containing one or more business establishments or other entities (such as a multiple unit shopping center), the front dimension of each such unit shall be considered the building frontage of the unit and the sign allowance for each business establishment or other entity occupying such unit shall be shared among the business establishments or other entities occupying such unit in the manner prescribed by the property owner. Any remaining part of the exterior of the building which has not been subdivided into fully enclosed units shall be treated the same as a building which has not been subdivided into units.

<<INSERT GRAPHIC>>

- (4) If a single business establishment or other entity occupies more than one consecutive fully enclosed unit, the building frontage of such business or other entity shall be the total linear dimension of building frontage of all such units combined.

<<INSERT GRAPHIC>>

- (5) The allowable signage to be mounted on a building shall be based on the building frontage of a business or other entity as follows:

Linear Feet of Structural Frontage	Square Feet/Linear Feet of Structural Frontage	Maximum
≤100 Linear Feet	2 Square Feet	100 Square Feet
>100 Linear Feet to ≤300 Linear Feet	1 Square Foot	200 Square Feet
>300 Linear Feet	.75 Square Feet	300 Square Feet
In the event a building is located on a lot that does not abut a public street, the frontage shall be measured along the publicly dedicated parking lot or platted alley that the lot fronts		

- (6) In addition to the sign area otherwise allowed in this section, business establishments or other entities which meet the following criteria shall be allowed additional sign area for building-mounted signs as follows:

- (i) Businesses or other entities fronting on more than one platted street shall be permitted an additional sign area allowance of one-half square foot per linear foot of building frontage on such additional street up to a maximum of 50 square feet per street. Such

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additional sign area allowance for a second street shall be added to the building-mounted sign area allowance resulting from the building frontage calculation. If a business or other entity fronts on three or four streets, then the additional sign allowance resulting from frontage on the third and/or fourth streets shall be used on the building face actually abutting the third and/or fourth streets. For purposes of this article, when a business or other entity fronts three or four streets, the side(s) of the business establishment or other entity shall be deemed to be fronting on the second and, if applicable, the fourth streets and the rear of the business establishment or other entity shall be deemed to front on the third street.

- (ii) Businesses or other entities whose side or rear building frontages abut a public alley, public parking area, or mall parking area shall be permitted an additional allowance of one-half square foot per linear foot of such side or rear building frontage up to a maximum of 50 square feet. Such additional allowance shall only be used on the side or rear of the building which actually abuts the public alley, public parking area, or mall parking area.

B. Freestanding signs.

(1) Individual business or entity sites.

- a. Except as otherwise provided in Section 6.4.2 of this article, "Gasoline pricing signs," no site shall have more than two freestanding signs.
- b. The allowable freestanding sign area (in square feet), the maximum number of freestanding signs, and the maximum height of freestanding signs erected, located, or placed on lawfully existing non-residential uses in all zoning districts shall be based on the street frontage of the site.
- c. When only one freestanding sign is permitted, the sign shall provide architectural design features, including colors or materials or both consistent with those used in the design of the building to which the sign is accessory. These features shall apply to the sign frame and supporting materials, not to the sign panel or panels that provide the actual advertising area.
- d. When two freestanding signs are permitted, a unified sign plan is required pursuant to § 7.16 of this article.
- e. For all individual non-residential use sites, the following maximum freestanding sign(s) number, maximum freestanding sign area, and height limitations shall apply:

Freestanding Signs	Individual businesses or entities	Individual businesses or entities in Preserve Zoning Districts	Individual businesses or entities on Pine Island Road (SR 78), Veterans Parkway, US 41, and Burnt Store Road
Sign are based on street frontage (linear feet)			
100 feet or less	30 square feet	24 square feet	36 square feet
101-200 feet	40 square feet	24 square feet	48 square feet
201-300 feet	52 square feet	24 square feet	60 square feet
301+ feet	65 square feet	24 square feet	75 square feet
Height (feet):	20	20	25
Maximum Number:			
Site with less than 500 linear	1	1	1

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feet abutting a single street			
Site with 500 or more linear feet abutting a single street	2	1	2
1. When more than one freestanding sign is permitted on the same site, signs must be spaced a minimum of 300 feet apart.			

(2) Multiple business or entity sites.

- a. When only one freestanding sign is permitted, the sign shall provide architectural design features, including colors and/or materials consistent with those used in the design of the building the sign is accessory to. These features shall apply to the sign frame and supporting materials, not to the sign panel or panels that provide the actual advertising area.
- b. On sites that are approved through a Planned Unit Development which contain commercial, professional, industrial, mixed use, or agricultural uses together with residential properties as part of the same Planned Unit Development, and the residential uses front the road on which the development faces with non-residential uses located inside the development not visible from the road, the Director, may allow signs that are used to direct motorists to facilitate finding the non-residential component of the development. The Director, shall take into consideration factors that include:
 - (i) The location of the non-residential uses within the development;
 - (ii) The location of permitted signage for the non-residential uses within the development; and
 - (iii) Roadway conditions.
- c. Although the distribution of freestanding signage among the tenants or occupants of a multiple business or entity site shall be the responsibility of the real property site owner, the following limitations concerning maximum number, sign area, and height of freestanding signs shall apply to all multiple business or entity sites containing non-residential uses:

Freestanding Signs	Multiple business or entity sites	Multiple business or entity sites in Preservation Zoning Districts	Multiple business or entity sites on Pine Island Road (SR 78), Veterans Parkway, US 41, and Burnt Store Road
Sign are based on street frontage (linear feet)			
100 feet or less	50 square feet	24 square feet	60 square feet
101-200 feet	64 square feet	24 square feet	75 square feet
201-300 feet	80 square feet	24 square feet	100 square feet
301+ feet	100 square feet	24 square feet	150 square feet
Height (feet):	20	20	25
Maximum Number:			
Site with less than 500 linear feet abutting a single street	1	1	1
Site with 500 or more linear feet	2	1	2

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abutting single street	a		
1. When more than one freestanding sign is permitted on the same site, signs must be spaced a minimum of 300 feet apart. 2. In the event the depth of the property is at least three times the length of the street frontage (linear feet), an additional 25% of sign area is allowed.			

Section 6.2.6. Sign Permits (SAME)

- .1 Required. Except as otherwise required, no sign shall be located, placed, erected, constructed, altered, extended, or displayed without first obtaining a sign permit and meeting all requirements of the Florida Building Code. In the event a sign is located, installed, or maintained upon real property without any required permits, after the expiration or lapse of a sign permit, after the closure of a business, or otherwise in violation of the requirements of this article, the owner of the real property shall be deemed to be responsible for the prompt removal of such sign and shall be responsible for and subject to all fines or penalties which shall result from such violation.
- .2 Procedure. The procedure for obtaining a sign permit shall in conformance with application requirements in Article 3.1.
 - A. Upon request by the Department, the applicant shall provide such supplementary information as may be specifically requested by the Department to determine compliance with this article.
 - B. The Department shall review the application, plans, and specifications to determine whether the proposed sign conforms to all applicable requirements of this article and, based on such review, shall either approve or deny the application for the sign permit.
 - (1) Sign permit applications which include a request for a deviation to this article, pursuant to Section 6.2.8 of this article, shall either be approved or denied. However, if the applicant has applied for a building permit or certificate of use for the non-residential use at the subject site or for an electrical permit for the illumination of a sign, no sign permit shall be issued by the city until after the requested building or electrical permit or certificate of use has been issued by the city.
 - (2) In no event shall the issuance of a sign permit following the issuance of a building permit, but prior to the completion of the construction project, result in an increase in the sign(s) or signage allowed under this article based on the structure as it is eventually completed. In other words, if the city issues sign permit(s) following the issuance of a building permit, but before the construction of the building or structure is completed, and one or more sign(s) are installed or erected pursuant to such sign permit, but then the building plans are modified in such a way as to reduce the number, size, etc. of the sign(s) or signage which would be allowed under this article, then the property owner shall be required to bring such sign(s) or signage into compliance with the provisions of this article and to obtain a valid sign permit for such sign(s).
- .3 Submission requirements. No request for a sign permit shall be considered complete until all required documents and fees are received.
 - A. Plans and specifications. Plans and specifications for any proposed sign shall be drawn to scale and shall include the following:
 - (1) Dimensions and elevations, including the message of the sign;
 - (2) Parcel frontage on all street rights-of-way for freestanding signs only;

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- (3) Linear dimension(s) of the subject building or unit located adjacent to all public rights-of-way such as streets, alleys, and public parking lots for freestanding signs only;
- (4) Maximum height of the sign, as measured in accordance with this article;
- (5) Location of the sign in relation to property lines, public rights-of-way, easements, buildings, and other signs on the property;
- (6) Dimensions and anchoring of the sign's supporting members;
- (7) For illuminated signs, the type, location, and direction of illumination sources;
- (8) Construction and electrical specifications, enabling determination that the sign meets all applicable structural and electrical requirements of the building code; and
- (9) Number, type, location, and surface area of all existing signs on the same property and/or building on which the sign is to be located, except that in the event all or part of the exterior of a building has been subdivided into two or more fully enclosed units capable of containing one or more business or entity establishments, such as a multiple unit shopping center, the number, type, location, and surface area of all building mounted signs on the unit for which the proposed sign is sought and all freestanding signs on the property shall be included.

B. Deviations. If a deviation to any requirements of this article is necessary, a request for a deviation shall be included with the initial application for a sign permit pursuant to Section 6.2.8 of this article.

.4 Lapse. A sign permit shall lapse automatically if the business tax receipt for the premises lapses, is revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of 30 days and is not renewed within 30 days from the date a written notice is sent from the city to the last permittee that the sign permit will lapse if such activity is not resumed. A sign permit shall also lapse if the sign for which it is issued either is not erected and/or placed within 180 days following the issuance of the sign permit or is removed for a period of 60 days. Once a sign permit has lapsed, it shall be considered void and a new application and review process shall be necessary to have such a permit reissued.

.5 Identification. All signs requiring a permit shall have the permit number permanently imprinted or otherwise placed in the lower right-hand corner of the sign.

.6 Removal. The permittee and/or the site owner shall be responsible for the removal of a sign once the sign permit has expired or lapsed, without an application for a new permit, or the purpose in displaying the sign has ended.

Section 6.2.7. Non-Conforming Signs (SAME)

A. Non-conforming sign compliance. All signs lawfully erected prior to October 1, 2013 that do not comply with the requirements of this article shall be considered non-conforming signs. All non-conforming signs shall be removed or brought into conformity with this article no later than January 1, 2024. The owners of the real property on which such non-conforming signs exist shall be responsible for ensuring that such signs are removed or brought into conformity. Non-conforming signs shall not be altered, replaced, or repaired if such alteration, replacement, or repair would constitute more than 50% of the replacement value of the non-conforming sign. All other signs that were not lawfully erected prior to October 1, 2013 that do not comply with the requirements of this article shall be removed no later than December 31, 2013.

B. Effect of annexation on sign compliance. Any sign that was lawfully erected on property that was located outside of the jurisdiction of the city at the time the sign was erected but which was annexed into the city prior to October 1, 2013 and that does not comply with the requirements of this article shall be considered a non-conforming sign and shall be removed or brought into conformity with this article no later than January 1, 2024. Any sign that was or is lawfully erected on property that was located outside of the jurisdiction of the city at the time the sign is erected but which was annexed into the city on or after October

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1, 2013 and that does not comply with the requirements of this article, shall be considered a non-conforming sign and shall be removed or brought into conformity with this article no later than ten years from the effective date of the annexation.

- C. Restrictions on permitting certain non-conforming signs. Sign permits will not be issued for the alteration, replacement, or repair of a non-conforming sign if such alteration, replacement, or repair constitutes more than 50% of the replacement value of the existing non-conforming sign. Changing the information on the face of an existing non-conforming sign shall not be deemed an action increasing the degree or extent of the non-conformity to constitute a violation of this article. Any other alteration to an existing non-conforming sign will be required to conform to this article.
- D. Exceptions. A sign which is erected, located, or installed prior to the adoption of this ordinance and which was approved by a dimensional variance from the Board of Zoning Adjustment and Appeals or the City Council shall retain such variance approval. A sign which is erected, located, or installed prior to the adoption of this ordinance and which was approved by a deviation from the Director shall retain such deviation approval. However, any sign which has been approved by such a dimensional variance or deviation and is then changed to conform to this article shall forfeit the sign variance or deviation.

Section 6.2.8. Sign Deviations (MINOR CHANGE)

.1 Deviations. A deviation may be granted from the strict application of the regulations in this chapter which apply to :

- (a) allow a 25% increase in allowable sign area; or
- (b) allow a 25% increase in allowable sign height; or
- (c) allow for decrease in minimum distance between freestanding signs; or
- (d) allow an additional freestanding sign.

.2 Requests for deviations shall be initiated by the applicant in the application for sign permit approval and shall be accompanied by documentation including, but not limited to, sample detail drawings, schematic architectural drawings, site plans, elevations, and perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the benefit, or at least not to the detriment, of the public interest. Deviations from the provisions of this article may be approved by the Director provided that such deviation will not be contrary to the public interest and in harmony with the general intent and purpose of this article and where one or both of the following criteria are satisfied:

- 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. There is something unique about the building or site configuration that would cause the signage permitted by this article to be ineffective in identifying a use or structure that would otherwise be entitled to a sign.

.3 Subject to the standards and criteria stated above, the Director shall approve only the minimum deviation from the provisions of this article necessary to avoid the undue hardship or to cause the signage for the site to be effective in identifying the use or structure located on the site. However, no deviation shall be approved that would have the effect of allowing a type or category of sign that would otherwise be prohibited by this article.

.4 Any person aggrieved by the decision of the Director concerning a deviation from the provisions of this article may appeal such decision to the Hearing Examiner in accordance with Article 3.1.14.B

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.5 The Hearing Examiner may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it within 60 days of the filing of a notice of appeal. To this end, the Hearing Examiner shall have all the powers of the authority from whom the appeal is taken. The Hearing Examiner's powers on appeal also shall be limited to the powers of the authority from whom the appeal is taken so that the Hearing Examiner shall have the power to approve only the minimum deviation from the provisions of this article necessary to avoid the undue hardship or to cause the signage for the site to be effective in identifying the use or structure located on the site. Neither the variance procedures nor variances themselves shall be available for increasing the number of signs or the sign area to be allowed for a site.

.6 Appeals from the decision of the Hearing Examiner shall be in accordance with the procedures identified in Article 3.1.14.C

Section 6.2.9. Maintenance of Signs (NEW)

.1 Maintenance Required.

It is unlawful for any owner of record, lessor, lessee, manager, or other person having lawful possession or control over a building, structure, or parcel of land to fail to maintain any signs on the building, structure, or parcel in compliance with this chapter. Failure to maintain a sign constitutes a violation of this chapter and shall be subject to enforcement under the enforcement provisions of Chapter 1.6.

All signs, if in existence prior to adoption of this chapter, shall be maintained and kept in good repair and in a safe condition. Maintenance of a sign shall include, but is not limited to, periodic cleaning, replacement of flickering, burned out or broken light bulbs or fixtures, repair or replacement of any faded, peeled, cracked, or otherwise damaged or broken parts of a sign, and any other activity necessary to restore the sign so that it continues to comply with the requirements and contents of the sign permit issued for its installation, if required, and the provisions of this chapter.

.2 Removal.

Every person maintaining a sign must, upon vacating the premises where a sign is maintained, remove or cause to be removed said sign within 180 days from the date of vacating the premises. When the Director determines that said sign has not been removed within said period, the Director shall remedy and enforce said violation in accordance with the enforcement provisions of this chapter.

Any vacant and/or unused sign support structures, angle irons, sign poles, or other remnants of old signs which are currently not in use, or are not proposed for immediate reuse by a sign permit application for a permitted sign, shall be removed.

The Director shall have the authority to require the repair, maintenance, or removal of any sign or sign structure which has become dilapidated or represents a hazard to the safety, health, or welfare of the public, at the cost of the sign and/or property owner.

Any sign posted in violation of this chapter on public property or on public rights-of-way shall be subject to summary removal by the City.

Any person responsible for any sign posting made in violation of this chapter shall be liable to the City for the costs incurred by the City in removal thereof and, in event of failure to pay, for billing and collection charges, including interest and reasonable attorneys' fees.

Chapter 6.3 Temporary Signs (MINOR CHANGE)

.1 Temporary signs, identified in this chapter as not requiring a sign permit, unless indicated below, must otherwise meet all the applicable requirements of this section and this article. Any temporary sign not meeting these

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requirements, in any way, including quantity, shall be treated as a non-exempt sign subject to permitting. The area of temporary signs displayed on a site shall not be included in the calculation of the total signage on such site.

A. A-Frame Signs	
Applicable Zoning District/Use	Non-Residential Zoning Districts and lawfully existing Non-Residential Uses in Residential Zoning Districts
Sign permit required	No
Number of signs	1 per business, as identified by business tax receipt
Maximum Area	An A-frame sign shall not have a copy area wider than 24 inches by 36 inches
Maximum Height	3 feet 6 inches
Location	No A-frame sign shall block accessibility or be placed in any public right-of-way, exit, loading zone, bicycle rack, wheelchair ramp, sidewalk ramp, in designated parking spaces, in landscape areas, traffic triangles, or sidewalks.
Duration	None
Materials	An A-frame shall be constructed of materials that are durable and weather resistant, including wood, steel, fiberglass, plastic, or aluminum. Construction of the sign shall be of professional quality. Signs may consist of a framed chalkboard, whiteboard, tack board, or material that allows changeable copy. An A-frame sign shall be constructed to be able to withstand wind and other unpredictable weather elements, including thunderstorm activity. The sign face and the sign frame shall not contain glitter, florescent materials, streamers, balloons, or reflective materials.
Other	<ol style="list-style-type: none"> 1. No A-frame sign shall be permanently anchored or secured to any surface. 2. Signs shall be brought indoors at the close of each business day.

B. Banners	
Applicable Zoning District/Use	Non-Residential Zoning Districts and lawfully existing Non-Residential Uses in Residential Zoning Districts
Sign permit required	Yes
Number of signs	1
Location	Except as provided for banners permitted in conjunction with temporary satellite sales events or special events that are located on unimproved property or with events that are in lawfully permitted structures other than buildings (such as tents), no banner shall be attached to, placed on, displayed from, or mounted on any object other than a building, including but not limited to, trees or other vegetation, vehicles, trailers, utility poles, freestanding signs, or stakes. Each end of a displayed banner shall be secured to the building at which the banner is displayed.
Duration	10 consecutive days
Other	<ol style="list-style-type: none"> 1. All banners displayed on a site shall be securely installed in a manner which will not impede the visibility of the motoring or pedestrian traffic. 2. At least 28 days must elapse from the expiration of one permit prior to the issuance of another permit for the display of a banner at a site.

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C. Sign(s) associated with on-site construction projects			
Applicable Zoning District/Use	Single-Family Zoning Districts	All other zoning districts; site less than one acre	All other zoning districts; site one acre or more
Active building permit required	Yes, except as provided in B. of "Duration" herein		
Sign Permit Required	No		
Number of Signs	3 per site	3 per site	6 per acre
Maximum Area	16 square feet for sites less than one acre; 32 square feet for sites one acre or more	16 square feet	32 square feet
Maximum Height	8 feet		
Location	Shall not be in the right-of-way		
Duration	<ol style="list-style-type: none"> Each sign associated with on-site construction projects that require a building permit shall be removed upon: Expiration of the building permit for the on-site construction; or No later than 10 days after issuance of the certificate of occupancy for the on-site building; whichever date is earlier. Each sign associated with incidental projects or work that does not require a building permit shall be removed upon the completion of the work performed or within 30 days, whichever occurs first. 		

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D. Feather Banners	
Applicable Zoning District/Use	Permitted only conjunction with an approved and active Model Home Use
Sign permit required	No
Number of signs	<p>A model home on a single site with one model home may display 4 feather banners and 1 banner on the model home site. Corner-lot model home sites shall be allowed a total of 4 feather banners with no more than 2 per side.</p> <p>For model home sites with two or more model homes approved through a single development application, one model will be allowed to have a freestanding sign, but will not be permitted to have more than 1 feather banner or banner for that individual development site. The additional model homes regulated by the special exception shall be allowed to have 4 feather banners on each model home site.</p>
Maximum Width	3 feet
Maximum Height	15 feet from ground level including support portion of the banner.
Materials	The sign face of the feather banner shall be nylon, polyester, vinyl, or canvas. Neither the sign face nor the sign frame shall contain glitter, florescent materials, metal, or reflective materials.
Duration	Life of the active Special Exception or until converted to new use. Feather banner or banner signs shall only be displayed on the approved special exception home property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Sunday. When the model home is not open, all feather banners and banners shall be removed and stored inside the model home.
Other	All banners and feather banners shall be maintained in good condition and shall not become faded, torn, or in other similar forms of poor condition.

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E. Inflatable Objects		
Applicable Zoning District/Use	All districts	
Size	2 feet or less in width, diameter, and height	More than 2 feet in width, diameter, or height
Sign Permit Required	No	Yes
Number of Signs	4	2
Maximum Height when measured from ground	30 Feet	30 Feet
Location	No less than 10 feet from right-of-way	
Duration	Not limited	Maximum 10-day duration; minimum 28 days required between permits
Other	<ol style="list-style-type: none"> 1. Inflatable objects that are 2 feet or less in width, diameter, and height and that contain no commercial message may be located or displayed on a site without obtaining a permit. 2. Inflatable objects that are greater than 2 feet in width, diameter, or height or that contain a commercial message may be located or displayed on a site provided that a permit is obtained. 3. Inflatable objects shall be erected using approved tie-down methods. 4. No inflatable object shall be displayed in a parking space necessary for the site to meet its minimum parking requirements. 5. Except for multiple business or entity sites, the display of inflatable object(s) on a site shall not exceed a period of 10 consecutive days. 6. On multiple business or entity sites, each use located on the site shall be treated as if it were a single business or entity site. 7. The area of the inflatable object(s) displayed on a site shall not be included in the calculation of the total signage on such site. 8. Inflatable objects shall not be placed on the roof of a structure. 	

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F. Signs located on properties for sale/lease			
Applicable Zoning District/Use	All Districts		
Linear Frontage	Less than 200 linear feet of street frontage	200 to 600 linear feet of street frontage	Greater than 600 linear feet of street frontage
Sign Permit Required	No		
Number of Signs	1 per parcel or per individually owned unit, plus 1 per lot or individually owned unit for golf course or waterway frontage. A maximum of 4 sign blades may be attached to the sign and support structure.	1 per parcel or per individually owned unit, for each public street abutting property, plus 1 per lot or individually owned unit for golf course or waterway frontage. A maximum of 4 sign blades may be attached to the sign and support structure.	
Maximum Area	4 square feet	16 square feet for whole property or if individually owned, and in lieu of other signage, then one 4 square foot sign per unit	32 sq. ft. for whole property or if individually owned, and in lieu of other signage, then one 4 square foot sign per unit

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Maximum Height	6 feet	6 feet	6 feet
Location	Shall not be in the right-of-way		
Duration	Removed no more than 10 days after close of sale, lease, or rental		

G. Open House Signs			
Applicable Zoning District/Use	All residential zoning districts		
Type of Sign	On-Site Signs	On-Site Flag Standards	Temporary Directional Signs
Certificate of Occupancy	Yes		
Sign Permit Required	No		
Number of Signs	1	2	2
Maximum Area	4 square feet	4 square feet	4 square feet
Maximum Height	2 feet	4 feet	2 feet
Location	Shall not be in right-of-way		
Duration	Hours of Open House		
Other	Open house signs that meet the definition of feather banner are prohibited.		

H. Election Signs		
Applicable Zoning District/Use	Residential uses in residential districts and model home sites in any district	Non-residential districts and legal, non-residential uses in residential districts
Sign Permit Required	No	
Number of Signs	1 per 10 linear feet of street frontage	1 per 20 linear feet of street frontage
Maximum Area	4 square feet	16 square feet
Maximum Height	5 feet	10 feet
Location	Shall not be in right-of-way	
Duration	30 days prior to primary or 90 days prior to general election until 10 days after election addressing issue	
Additional Requirements	None	Prior to placement, the owner of the election signs shall provide a list of locations of the signs, and written permission from each property owner or his or her authorized agent for placement of the signs
Other	If an election sign does not conform to the conditions and regulations applicable to residential signs or non-commercial signs for the site at which the sign is located or if the one "residential sign" or "non-commercial sign" allowed as exempt (reference) is already located on the site at which the aforesaid election sign is located, then any such election sign displayed on a site outside of the aforesaid time period or the excess election signs shall no longer be deemed to be an "exempt" sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.	

I. Temporary Directional Signs	
Applicable Zoning District/Use	All districts
Sign Permit Required	No
Number of signs	2

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Maximum Area	4 square feet
Maximum Height	4 feet
Location	Shall not be in right-of-way
Duration	48 hours prior to event until 24 hours after event
Other	Temporary directional signs shall only be located on private property (upon the permission of the private property owner).

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J. Signs on properties containing temporary office structures		
Applicable Zoning District/Use	Residential Zoning Districts	All Non-Residential Districts
Sign Permit Required	Yes	Yes
Number of signs per site	2	2
Maximum Area	18 square feet if building within 100 feet of property line; 32 square feet if building 100 feet or more from property line	See allowed building mounted signage as provided in § 7.15.2.A of this article
Location	Attached to temporary office structure	
Duration	From legal occupancy of structure to not more than 10 days after vacancy	

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Chapter 6.4 Permanent Signs

Section 6.4.1. Permanent Signs - Residential

Sign Type		Regulations		Other Requirements
Residential Signs				
Single Family	Maximum Number	1		
	Area (Max Sq. Ft.)	4		
	Height	5		
	Permit Required	No		
Multi-Family 2-6 Units in RMM and RML	Maximum Number	1/Street Frontage not to exceed 2		
	Area (Max Sq. Ft.)	16/sign		
	Height	10		
	Permit Required	No		
Multi-Family Greater Than 7 Units in RMM and RML	Maximum Number	1/Street Frontage not to exceed 2		
	Area (Max Sq. Ft.)	24/sign		
	Height	10		
	Permit Required	No		
Directional Signs	Maximum Number	1		A permanent directional sign may be located or installed on private property by the property owner or within the public right-of-way by a private business on behalf of the City of Cape Coral if necessary to direct the public to a hidden or difficult to access location.
	Height/Width	54"/56"		
	Height	24" to the bottom of the sign from ground.		
	Permit Required	No		
Flags	Maximum Number	N/A		Flags that bear no commercial message. Flags bearing commercial messages shall require a permit and shall be calculated in the sign area located on the site. Flags bearing an incidental sign message shall be treated in the same manner as incidental signs.
	Area (Max Sq. Ft.)	N/A		
	Height	N/A		
	Permit Required	No		
Incidental Signs				
Single Family	Maximum Number			

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	Area (Max Sq. Ft.)		
	Height		
	Permit Required		
Multi-Family 2-6 Units in RMM/RML	Maximum Number	3	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6	
	Height	N/A	
	Permit Required	No	
Multi-Family Greater Than 7 Units in RMM/RML	Maximum Number	3	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6	
	Height	N/A	
	Permit Required	No	
Interior Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	No	
Handheld Signs	Maximum Number	N/A	Hand held signs or signs worn as part of a costume or item of clothing that do not contain a commercial message. For the purposes of this article, all signs on non-residential property shall be presumed commercial; however, the presumption shall be considered rebuttable and may be overcome if a reasonable person could logically conclude that the presumption is invalid. Nothing in this provision shall be construed to exempt persons who display such signs from other legal requirements, including, but not
	Area	N/A	
	Height	N/A	
	Permit Required	No	

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			limited to, those relating to traffic, privacy, and trespass.
Non-Commercial Signs in Traditional Public Forum/Rights of Way	Maximum Number	1	<p>The sign must be hand-held or worn as an item of clothing;</p> <p>The sign must not be affixed to the ground or otherwise rendered freestanding; and</p> <p>The sign must not be displayed on a median of a divided roadway and must not unreasonably obstruct or interfere with the normal flow of vehicle and pedestrian traffic.</p>
	Area	N/A	
	Height	N/A	
	Permit Required	No	

Section 6.4.2. Permanent Signs - Non-Residential

Sign Requirements Non-Residential Zoning Districts and Lawfully Existing Non-Residential Uses in Residential Zoning Districts

Sign Type	Regulations		Other Requirements
Awning Signs	Maximum Number	N/A	
	Area (Max Sq. Ft.)	8	
	Height	N/A	
	Permit Required	No	
Building Signs	Maximum Number	Article 6.6.2.5.2.A	
	Area	Article 6.6.2.5.2.A	
	Height	Article 6.6.2.5.2.A	
	Permit Required	Yes	
Development Identification Signs	Maximum Number	1 (See other requirements)	<p>Boulevard entrances. At residential subdivision or residential development entrances which contain a median strip separating the entrance and exit lanes, either one freestanding sign may be in the median strip of the entrance or two single-faced signs equal in size may be located on each side of the entrance.</p> <p>Non-boulevard entrances. At subdivision or residential development entrances which do not contain a median strip separating the entrance and exit lanes, either one double-faced sign facing perpendicular to the street or two single-faced</p>
	Area (Max Sq. Ft.)	32 Sq. Ft.	
	Height	10 Ft.	
	Permit Required	Yes	

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			<p>signs equal in size and located on each side of the entrance may be erected or located.</p> <p>Location. Except when allowed in the entrance median strip, development signs shall be located on private or commonly owned property and shall be set back a minimum of 15 feet from the edge of the entrance way pavement. A development sign may incorporate or be incorporated into landscaping, or into accessory entrance structural features including, but not limited to, a fountain or wall.</p> <p>Development signs may be illuminated only by means of exterior lights which are shielded so that light does not interfere with vehicular or pedestrian traffic.</p>
Directional Signs	Maximum Number	1	A permanent directional sign may be located or installed on private property by the property owner or within the public right-of-way by a private business on behalf of the City of Cape Coral if necessary to direct the public to a hidden or difficult to access location.
	Height/Width	54"/56"	
	Height	24" to the bottom of the sign from ground.	
	Permit Required	No	
Electronic Message Centers	Maximum Number	Article 6.6.2.5.2.A-B	See Section 6.4.3.2 Miscellaneous Signs
	Area	Article 6.6.2.5.2.A-B	
	Height	Article 6.6.2.5.2.A-B	
	Permit Required	Yes	
Fascia Signs in South Cape (SC) Zoning District	Maximum Number	N/A	<p>In the South Cape Downtown zoning district only, projecting signs may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development.</p> <p>The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney.</p>
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Flags	Maximum Number		

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	Area		Flags that bear no commercial message. Flags bearing commercial messages shall require a permit and shall be calculated in the sign area located on the site. Flags bearing an incidental sign message shall be treated in the same manner as incidental signs.
	Height		
	Permit Required		
Freestanding Signs	Maximum Number	Article 6.6.2.5.2.B	Not incidental or residential.
	Area	Article 6.6.2.5.2.B	
	Height	Article 6.6.2.5.2.B	
	Permit Required	Yes	
Gasoline Pricing Signs	Permit Required	Yes	See Section 6.4.3.1 Miscellaneous Signs
Incidental Signs	Maximum Number	N/A	In the event a sign which would otherwise be deemed to be an incidental sign is displayed on a site, but does not conform to the conditions and regulations applicable to incidental signs for the site at which the sign is located, such sign shall no longer be deemed to be an exempt sign, but instead shall be treated as and subject to all conditions and regulations applicable to a non-exempt sign located on the site.
	Area (Max Sq. Ft.)	6	
	Height	6	
	Permit Required	No	
Integral Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	
Interior Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	No	
Marquee Signs in South Cape (SC) only	Maximum Number	N/A	Projecting signs may occur forward of the build-to zone or the minimum setback, as applicable, but shall not extend forward of the property line and may encroach into the easement if approved by the Director of the Department of Community Development.
	Area	N/A	
	Height	N/A	
	Permit Required	Yes	

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			The City may require the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney.
Memorial Signs	Maximum Number	N/A	
	Area	N/A	
	Height	N/A	
	Permit Required	No	
Menu Board(s)/Pre-Sale Board(s)	Maximum Number	Menu Board 1/Drive-Through Pre-Sale Board 1/Drive Through	
	Area	32 Sq. Ft./12 Sq. ft.	
	Height	N/A	
	Permit Required	Yes	
Model Home Signs	Maximum Number	1	Both sides of sign can be used for advertising. Must be on a site with an approved special exception or conditional use for a model home.
	Area	32 Sq. Ft.	
	Height	10 Ft.	
	Permit Required	Yes	
Non-Commercial Signs	Maximum Number	1	May be freestanding or building sign.
	Area	4	
	Height	5	
	Permit Required	No	
Handheld Signs	Maximum Number	N/A	Hand held signs or signs worn as part of a costume or item of clothing that do not contain a commercial message. For the purposes of this article, all signs on non-residential property shall be presumed commercial; however, the presumption shall be considered rebuttable and may be overcome if a reasonable person could logically conclude that the presumption is invalid. Nothing in this provision shall be construed to exempt persons who display such signs from other legal requirements, including, but not limited to, those relating to traffic, privacy, and trespass.
	Area	N/A	
	Height	N/A	
	Permit Required	N/A	

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Non-Commercial Signs in Traditional Public Forum/Rights of Way	Maximum Number	1	The sign must be hand-held or worn as an item of clothing; The sign must not be affixed to the ground or otherwise rendered freestanding; and The sign must not be displayed on a median of a divided roadway and must not unreasonably obstruct or interfere with the normal flow of vehicle and pedestrian traffic.
Name Plate Signs	Maximum Number	1/Building Entrance	Must be attached to building.
	Area	2 Sq. Ft.	
	Height	N/A	
	Permit Required	No	
Suspended Signs	Maximum Number	1/Business Entrance	
	Area	4 Sq. Ft.	
	Height	8 Feet of minimum vertical clearance from any sidewalk, private drive, parking area, or public street.	
	Permit Required	No	
Window/Door Signs	Maximum Number	See Other Regulations.	On each side of a building, no more than 50% of the total glazed area of windows and doors on the first floor of that side of the building may contain a window/door sign or signs. If a window/door sign or signs cover more than 50% of the glazed area of the first-floor windows and doors on the side of the building where the window/door signs are located, the window/door sign or signs are no longer exempt. Any window/door sign or signs located above the first floor of a building shall not be deemed an exempt sign and shall require a permit.
	Area	See Other Regulations.	
	Height	N/A	
	Permit Required	No	

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ARTICLE 7 – SIGN REGULATIONS**

Section 6.4.3. Miscellaneous Signs

.1 Gasoline Pricing Signs

In addition to any other signage allowed herein, automobile service stations and other commercial uses lawfully containing fuel pumps for the sale of fuel to the public shall be allowed an additional 24 square feet of signage to advertise gasoline pricing provided that the gasoline pricing sign(s) shall be incorporated into a freestanding sign or located flat on the building or canopy.

Those sites located at the intersection of two platted streets shall be permitted one additional freestanding sign to be placed on the second platted street for the sole purpose of displaying gasoline prices. The second sign shall not exceed a total of 24 square feet of which a maximum of 25% may be utilized for the business name or logo.

.2 Electronic Message Center or Sign (EMC)

Electronic message center or sign shall meet the following criteria:

- (1) The brightness or intensity of the sign shall be factory set not to exceed 5,000 nits (or 464.52 lumens per square foot) between sunset and sunrise.
- (2) If the electronic message sign is a text-only message displays, then the text may move along the face of the sign, but the text shall not exceed 12 inches in height.
- (3) Only one electronic message sign shall be allowed per site.
- (4) An electronic message sign shall not be installed on a non-conforming sign.
- (5) Minimum display time is 2 seconds.

All electronic message center or sign not meeting these criteria are prohibited under § 6.2.2 of this article.

City of Cape Coral, Florida
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Article 8 – Nonconformities and Lawfully Existing Uses

Chapter 1. GENERAL APPLICABILITY

Section 8.1.1. Purpose.

The purpose of this Article is to provide for the continuation, modification, or elimination of nonconforming uses, structures, and signs in accordance with the standards and conditions in this Article. While nonconformities may continue, the provisions of this Article are designed to encourage the improvement or elimination of nonconformities in order to better achieve the purposes of these regulations.

Section 8.1.2. Definitions.

The terms “Nonconforming,” “Nonconforming, Legally,” “Nonconforming Lots of Record,” “Nonconforming Sign,” “Nonconforming Structure,” and “Nonconforming Use” are defined in Article X of this Code and are incorporated by reference for purposes of applying the standards and requirements of this Article.

Chapter 2. NONCONFORMING LOTS OF RECORD

Section 8.2.1. General.

The majority of the City was platted in the Cape Coral Subdivision (Units 1 – 98) with 5,000 square foot lots, with two adjoining lots combined as a 10,000-square foot “Parcel” to construct a single-family residence. A 10,000-square foot parcel is the minimum lot size required for subdivision or development of a single-family residence or a two-family dwelling (LDC Sec. 4.4.2 Lot Standards). Platted lots with less than 5,000 square feet and parcels less than 10,000 square feet are defined as nonconforming lots of record or parcels, respectively.

Section 8.2.2 Residential development on nonconforming lots of record.

Residential development on nonconforming lots of record may be permitted subject to the following requirements:

- A. Development of single-family residences under this provision is limited to the R-1 and RML zoning districts.
- B. Development of single-family residences defined as “Micro cottages” may be permitted on lots of record in the RML zoning district provided such lots are 5,000 square feet or more in area.
- C. Development of two-family residences under this provision is limited to the RML zoning district.

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- D. Development of single-family or two-family residences is permitted on nonconforming lots of record and parcels less than 10,000 square feet in area, without a variance, provided that:
1. Such lots or parcels are larger than 7,500 square feet in area; and
 2. The proposed development meets all requirements of this Code for setbacks, maximum building height, and off street parking.
- E. The nonconforming lots of record or parcels less than 10,000 square feet in area have not been subdivided or their boundaries altered through the “lot split and combine” process.

Chapter 3. NONCONFORMING STRUCTURES

Section 8.3.1. Continuation of nonconforming structures.

Except as may be provided for elsewhere in these regulations, a non-conforming structure may be continued subject to the standards and conditions of this Chapter.

Section 8.3.2. Destruction of nonconforming structures.

- A. Except for residential structures as identified in subsection B, below, a nonconforming structure that is damaged or destroyed to an extent exceeding 50 percent of the fair market value of the structure and improvements at the time of its destruction, shall not be reconstructed except in conformity with these regulations.
- B. Nonconforming residential structures (including accessory structures) in residential zoning districts may be reconstructed if damaged or destroyed to any extent, (less than 50%) if such reconstruction does not increase the extent of the nonconformity(ies) existing prior to destruction and the footprint of the structure is not enlarged or changed.

Section 8.3.3. Alterations to nonconforming structures.

A structure that is nonconforming in any way, shall not be altered or enlarged in a way that increases the extent of any nonconformity. Normal maintenance and repair is permitted. Alterations and additions which do not increase the nonconformity may be permitted.

Chapter 4. NONCONFORMING SIGNS

Section 8.4.1. Requirements for nonconforming signs.

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All signs with approved sign permits but which are not in conformance with the sign requirements of Article 6, may continue as nonconforming signs, subject to the standards and conditions of Article 6, **Chapter 11, Signs**.

Chapter 5. NONCONFORMING USES

Section 8.5.1. Continuation of nonconforming uses.

Except as may be provided for elsewhere in these regulations, a non-conforming use may be continued subject to the standards and conditions of this Chapter.

Section 8.5.2. Extension or expansion of nonconforming use.

A nonconforming use shall not be enlarged or expanded, except for nonconformities created by amendments to the comprehensive plan, as described in Chapter 6 of this Article.

Section 8.5.3. - Discontinuance of nonconforming use.

Whenever a nonconforming use of property has been discontinued for a period of one year or more, such non-conforming use shall not thereafter be re-established, and the future use of the property shall be in conformity with the provisions of these regulations.

Section 8.5.4. Permitted improvements of nonconforming uses.

Renovations, repairs, or changes to nonconforming uses may be permitted, subject to the following requirements:

- A. The nonconforming use is in a nonresidential zoning district;
- B. The total cost of the improvements is less than 50 percent of the fair market value of the structure and improvements; and
- C. The nonconforming use and associated site shall be brought into compliance with the following provisions of Article 5, Development Standards, to the maximum extent practicable, as determined by the Community Development Director:
 1. Landscaping;
 2. Sanitation;
 3. Signs;
 4. Lighting;
 5. Stormwater;

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- 6. Screening;
- 7. Noise Attenuation; and
- 8. Parking.

Chapter 6. NONCONFORMITIES RESULTING FROM COMPREHENSIVE PLAN CHANGES.

Section 8.6.1. Nonconformities created by comprehensive plan amendments.

- A. When an existing single-family or duplex dwelling becomes non-conforming as the result of an amendment to the Comprehensive Plan, including future land use map amendments, which amendment was not the result of an application or other action by the property owner, the principal single-family or duplex dwelling, as well as accessory structures, such as detached garages, sheds, and gazebos may be repaired, altered, enlarged, or replaced to the same extent as if the amendment to the Comprehensive Plan had not occurred for as long as the property owner who owned the property at the time the amendment was adopted continues to own the property on which the dwelling is located.
- B. For the purposes of this exception, a single-family or duplex dwelling shall be deemed to be "existing" if, prior to the effective date of the amendment referred to above, the dwelling was either constructed or an active application for a building permit to construct the dwelling was pending with or issued by the city. This exception applies only when the effect of a Comprehensive Plan amendment would render the principal single-family or duplex dwelling structure becoming non-conforming as the result of an amendment, and does not apply when the effect of an amendment would render accessory structures including sheds and gazebos, non-conforming while the principal dwelling remains conforming. This exception does not apply either to conjoined residential dwellings or to multi-family residential dwellings, regardless of number.
- C. In the event the property owner who owned the real property containing the single-family or duplex dwelling use at the time the Comprehensive Plan amendment was adopted conveys or otherwise transfers ownership of the real property, subsequent to the adoption of the amendment, to another person or entity, then this exception shall terminate and the dwelling shall be subject to the limitations identified by Chapters 4 and 5 of this Article, that apply to non-conforming structures generally and, prior to the conveyance or other transfer of property ownership, the property owner shall notify in writing the person or entity to whom ownership is being transferred of the change in the status of the property. The failure of a property owner to provide notice as required herein of the change in the status of the property shall not affect the change in the status of the property.

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Chapter 7. EMINENT DOMAIN.

Section 8.7.1. Nonconformities created by eminent domain.

Any structure, use, or lot made nonconforming as a direct result of eminent domain proceedings instituted by the City of Cape Coral or other condemning authority, or through a voluntary conveyance by such lot owner in lieu of formal eminent domain proceedings, which lot or parcel, except for such eminent domain or voluntary conveyance, would be an otherwise conforming lot or parcel, shall be deemed to be a conforming lot or parcel for all purposes under the City of Cape Coral Land Development Code, without the necessity for a variance from any land development ordinance. This subsection shall not apply to any lot or parcel which is reduced in size by more than 25 percent by such action.

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ARTICLE 9 – FLOODPLAIN MANAGEMENT

CHAPTER 1: ADMINISTRATION

Section 9.1.1. Title.

These regulations shall be known as the Floodplain Management Ordinance of the City of Cape Coral.

Section 9.1.2. Scope.

The provisions of this Article shall apply to all development that is wholly within or partially within any flood hazard area, including the subdivision of land; filling, grading, other site improvements, and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation, or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other action or activity defined as development.

Section 9.1.3. Purpose and Intent.

The purposes of this Article and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

- A. Minimize unnecessary disruption of commerce, access, and public service during times of flooding;
- B. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- C. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- D. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- E. Minimize damage to public and private facilities and utilities;
- F. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- G. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
- H. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

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Section 9.1.4. Coordination with the Florida Building Code.

This Article is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

Section 9.1.5. Warning.

The degree of flood protection required by this Article and the Florida Building Code is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside of mapped special flood hazard areas or that uses permitted within such flood hazard areas will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this city to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this Article.

Section 9.1.6. Disclaimer of liability.

This Article shall not create liability on the part of the City of Cape Coral or by any officer or employee thereof for any flood damage that results from reliance on this Article or any administrative decision lawfully made thereunder.

Section 9.1.7. Applicability.

- A. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- B. This Article shall apply to all development in flood hazard areas within the City of Cape Coral, as established in § 9.1.8. of this Article.

Section 9.1.8. Basis for establishing flood hazard areas.

The Flood Insurance Study for Lee County, FL and Incorporated Areas dated August 28, 2008, the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions are adopted by reference as a part of this Article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City Clerk's office, City of Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.

Section 9.1.9. Submission of additional data to establish flood hazard areas.

To establish flood hazard areas and base flood elevations pursuant to § 9.1.5 of this Article, the Floodplain Administrator may require submission of additional data. Additional data may be required where field surveyed topography prepared by a Florida licensed professional surveyor or digital

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topography accepted by the city indicates that ground elevations:

1. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this Article and, as applicable, the requirements of the Florida Building Code: or
2. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

Section 9.1.10. Other laws.

The provisions of this Article shall not be deemed to nullify any provisions of local state or federal law.

Section 9.1.11. Abrogation and greater restrictions.

This Article supersedes any regulation in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing regulations, including land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this Article and any other regulation, the more restrictive shall govern. This Article shall not impair any deed restriction, covenant, or easement but any land that is subject to such interests shall also be governed by this Article.

Section 9.1.12. Interpretation.

In the interpretation and application of this Article, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

CHAPTER 2. DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR.

Section 9.2.1. Designation.

The Director of the Department of Community Development is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

Section 9.2.2. General.

The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this Article. The Floodplain Administrator shall have the authority to render interpretations of this Article consistent with the intent and purpose of this Article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this Article without the granting of a variance

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pursuant to § 9.6.1. of this Article.

Section 9.2.3. Applications and permits.

The Floodplain Administrator, in coordination with other pertinent offices of the city, shall:

- A. Review applications and plans to determine whether proposed new development will be located in flood hazard areas.
- B. Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this Article.
- C. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation.
- D. Provide available flood elevation and flood hazard information.
- E. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant.
- F. Review applications to determine whether proposed development will be reasonably safe from flooding.
- G. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures, and facilities exempt from the Florida Building Code, when compliance with this Article is demonstrated, or disapprove the same in the event of noncompliance.
- H. Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this Article.

Section 9.2.4. Substantial improvement and substantial damage determinations.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- A. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.

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- 185 B. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-
186 damaged condition, or the combined costs of improvements and repairs, if applicable, to the market
187 value of the building or structure.
188
- 189 C. Determine and document whether the proposed work constitutes substantial improvement or
190 repair of substantial damage; the determination requires evaluation of previous permits issued for
191 improvements and repairs as specified in the definition of substantial improvement.
192
- 193 D. Notify the applicant if it is determined that the work constitutes substantial improvement or repair
194 of substantial damage and that compliance with the flood resistant construction requirements of
195 the Florida Building Code and this Article is required.
196

197 **Section 9.2.5. Modifications of the strict application of the requirements of the Florida Building Code.**
198

199 The Floodplain Administrator shall review requests submitted to the Building Official that seek approval
200 to modify the strict application of the flood load and flood resistant construction requirements of the
201 Florida Building Code to determine whether such requests require the granting of a variance pursuant to
202 § 9.6.1. of this Article.
203

204 **Section 9.2.6. Notices and orders.**
205

206 The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all
207 necessary notices or orders to ensure compliance with this Article.
208

209 **Section 9.2.7. Inspections.**
210

211 The Floodplain Administrator shall make the required inspections as specified in this Article for
212 development that is not subject to the Florida Building Code, including buildings, structures, and
213 facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard
214 areas to determine if development is undertaken without issuance of a permit.
215

216 **Section 9.2.8. Other duties of the Floodplain Administrator.**
217

218 The Floodplain Administrator shall have other duties, including:
219

- 220 A. Establish, in coordination with the Building Official, procedures for administering and documenting
221 determinations of substantial improvement and substantial damage made pursuant to § 9.2.4. of
222 this Article.
223
- 224 B. Require that applicants proposing alteration of a watercourse notify adjacent communities and the
225 Florida Division of Emergency Management, State Floodplain Management Office, and submit
226 copies of such notifications to the Federal Emergency Management Agency (FEMA).
227
- 228 C. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit
229 applications to submit to FEMA the data and information necessary to maintain the Flood Insurance
230 Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or

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floodway designations; such submissions shall be made within six months of such data becoming available.

D. Review required design certifications and documentation of elevations specified by this Article and the Florida Building Code and this Article to determine that such certifications and documentations are complete.

E. Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Cape Coral are modified.

F. Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."

Section 9.2.9 Floodplain management records.

Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this Article and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this Article; notifications to adjacent communities, FEMA and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this Article and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at the City Clerk's office, City of Cape Coral City Hall, 1015 Cultural Park Boulevard, Cape Coral, Florida.

CHAPTER 3. PERMITS

Section 9.3.1. Permits required.

Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this Article, including buildings, structures, and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator and the Building Official, if applicable, and shall obtain the required permit(s) and approvals). No such permit or approval shall be issued until compliance with the requirements of this Article and all other applicable codes and regulations has been satisfied.

Section 9.3.2. Floodplain development permits or approvals.

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Floodplain development permits or approvals shall be issued pursuant to this Article for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures, and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

Section 9.3.3. Buildings, structures, and facilities exempt from the Florida Building Code.

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures, and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this Article:

- A. Nonresidential farm buildings on farms, as provided in section F.S. § 604.50.
- B. Temporary buildings or sheds used exclusively for construction purposes.
- C. Mobile or modular structures used as temporary offices.
- D. Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity.
- E. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida, As used in this paragraph, the term **CHICKEE** means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- F. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- G. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- H. Structures identified in section F.S. § 553.73(10)(k) are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.

Section 9.3.4. Application for a permit or approval.

To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the city. The information provided shall:

- A. Identify and describe the development to be covered by the permit or approval.
- B. Describe the land on which the proposed development is to be conducted by legal description,

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street address, or similar description that will readily identify and definitively locate the site.

- C. Indicate the use and occupancy for which the proposed development is intended.
- D. Be accompanied by a site plan or construction documents as specified in § 9.4 of this Article.
- E. State the valuation of the proposed work.
- F. Be signed by the applicant or the applicant's authorized agent.
- G. Give such other data and information as required by the Floodplain Administrator.

Section 9.3.5. Validity of permit or approval.

The issuance of a floodplain development permit or approval pursuant to this Article shall not be construed to be a permit for, or approval of, any violation of this Article, the Florida Building Codes, or any other regulation of the City of Cape Coral. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

Section 9.3.6. Expiration.

A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

Section 9.3.7. Suspension or revocation.

The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error; on the basis of incorrect, inaccurate, or incomplete information; or in violation of this Article or any other regulation or requirement of the City of Cape Coral.

Section 9.3.8. Other permits required.

Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including the following:

- A. The South Florida Water Management District; F.S. § 373.036.
- B. Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065 and Chapter 64E-6, F.A.C.
- C. Florida Department of Environmental Protection for construction, reconstruction, changes, or

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physical activities for shore protection or other activities seaward of the coastal construction control line; F.S. § 161.141.

D. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; F.S. § 161.055.

E. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.

F. Federal permits and approvals.

CHAPTER 4. SITE PLANS AND CONSTRUCTION DOCUMENTS.

Section 9.4.1. Information for development in flood hazard areas.

A. The site plan or construction documents for any development subject to the requirements of this Article shall be drawn to scale and shall include, as applicable to the proposed development:

1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development;
2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with § 9.4.2.(B) or (C) of this Article;
3. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than five acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with § 9.4.2.(A) of this Article;
4. Location of the proposed activity, and structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide;
5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation;
6. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose;
7. Delineation of the coastal construction control line or notation that the site is seaward of the coastal construction control line, if applicable;
8. Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection; and

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9. Existing and proposed alignment of any proposed alteration of a watercourse.

- B. The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this Article but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this Article.

Section 9.4.2. Information in flood hazard areas without base flood elevations (approximate Zone A).

Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

- A. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
- B. Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
- C. Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
 2. Specify that the base flood elevation is two feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two feet; and
- D. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

Section 9.4.3. Additional analyses and certifications.

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

- A. For development activities in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in §

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9.4.4. of this Article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.

- B. For development activities in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one foot at any point within the City of Cape Coral. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
- C. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in § 9.4.4. of this Article.
- D. For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

Section 9.4.4. Submission of additional data.

When additional hydrologic, hydraulic, or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

CHAPTER 5. INSPECTIONS.

Section 9.5.1. General.

Development for which a floodplain development permit or approval is required shall be subject to inspection.

Section 9.5.2. Development other than buildings and structures.

The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this Article and the conditions of issued floodplain development permits or approvals.

Section 9.5.3. Buildings, structures and facilities exempt from the Florida Building Code.

The Floodplain Administrator shall inspect buildings, structures, and facilities exempt from the Florida Building Code to determine compliance with the requirements of this Article and the conditions of

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issued floodplain development permits or approvals.

Section 9.5.4. Buildings, structures, and facilities exempt from the Florida Building Code, lowest floor inspection.

Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure, or facility exempt from the Florida Building Code shall submit to the Floodplain Administrator:

- A. If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
- B. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with § 9.4.2.(C)(2) of this Article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner.

Section 9.5.5. Buildings, structures, and facilities exempt from the Florida Building Code, final inspection.

As part of the final inspection, the owner shall submit a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in § 9.5.4. of this Article.

Section 9.5.6. Manufactured homes.

The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this Article and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted.

CHAPTER 6. VARIANCES AND APPEALS.

Section 9.6.1. Variances.

The Cape Coral Hearing Examiner shall hear and decide on requests for requests for variances from the strict application of this Article. Pursuant to F.S. § 553.73(5), the Cape Coral Hearing Examiner shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building.

Section 9.6.2. Appeals.

The Cape Coral Hearing Examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this Article. Any person aggrieved by the decision of Cape Coral Hearing Examiner

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may appeal such decision to the Cape Coral City Council, as provided by § 8.9(need updated reference here) of the Land Development Code.

Section 9.6.3. Limitations on authority to grant variances.

The Cape Coral Hearing Examiner shall base his or her decisions on variances on technical justifications submitted by applicants, the considerations for issuance in § 9.6.7. of this Article, the conditions of issuance set forth in § 9.6.8. of this Article, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Cape Coral Hearing Examiner has the right to attach such conditions as deemed necessary to further the purposes and objectives of this Article.

Section 9.6.4. Restrictions in floodways.

A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in § 9.4.3. of this Article.

Section 9.6.5. Historic buildings.

A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

Section 9.6.6. Functionally dependent uses.

A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this Article, provided the variance meets the requirements of § 9.6.4., is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

Section 9.6.7. Considerations for issuance of variances.

In reviewing requests for variances, the Cape Coral Hearing Examiner shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this Article, and the following:

- A. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- B. The danger to life and property due to flooding or erosion damage;

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- C. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- D. The importance of the services provided by the proposed development to the City of Cape Coral;
- E. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- F. The compatibility of the proposed development with existing and anticipated development;
- G. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- H. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- I. The expected heights, velocity, duration, rate of rise, and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- J. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

Section 9.6.8. Conditions for issuance of variances.

Variances shall be issued only upon:

- A. Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this Article or the required elevation standards;
- B. Determination by the Cape Coral Hearing Examiner that:
 - 1. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements, or inconvenience do not constitute hardship;
 - 2. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws and ordinances; and
 - 3. The variance is the minimum necessary, considering the flood hazard, to afford relief;
- C. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and

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- D. If the request is for a variance to allow construction of the lowest floor of a new building or substantial improvement of a building below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

Chapter 7. VIOLATIONS.

Section 9.7.1. Violations.

Any development that is not within the scope of the Florida Building Code but that is regulated by this Article that is performed without an issued permit, that is in conflict with an issued permit or that does not fully comply with this Article, shall be deemed a violation of this Article. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this Article or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

Section 9.7.2. Authority.

For development that is not within the scope of the Florida Building Code but regulated by this Article and determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

Section 9.7.3. Unlawful continuance.

Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

CHAPTER 8. FLOOD RESISTANT DEVELOPMENT

Section 9.8.1. Design and construction of buildings, structures, and facilities exempt from the Florida Building Code.

Pursuant to § 9.3.3. of this Article, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures, and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of § 9.8.14. of this Article.

Section 9.8.2. Buildings and structures seaward of the coastal construction control line.

If extending, in whole or in part, seaward of the coastal construction control line and also, in whole or in

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part, in a flood hazard area:

- A. Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the Florida Building Code, Building Section 3109 and Section 1612 or Florida Building Code, Residential Section R322; and
- B. Minor structures and non-habitable major structures as defined in F.S. § 161.54, shall be designed and constructed to comply with the intent and applicable provisions of this Article and ASCE 24.

Section 9.8.3. Subdivision Minimum requirements.

Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

- A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
- C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

Section 9.8.4. Subdivision plats.

Where any portion of proposed subdivisions lies within a flood hazard area, the following shall be required:

- A. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
- B. Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with § 9.4.2. of this Article; and
- C. Compliance with the site improvement and utilities requirements of § 9.8.5., 9.8.6., 9.8.7., 9.8.8., 9.8.9., and 9.8.10. of this Article.

Section 9.8.5. Minimum requirements for site improvements, utilities, and limitations.

All proposed new development shall be reviewed to determine that:

- A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
- B. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are

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located and constructed to minimize or eliminate flood damage; and

- C. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

Section 9.8.6. Sanitary sewage facilities.

All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

Section 9.8.7. Water supply facilities.

All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

Section 9.8.8. Limitations on sites in regulatory floodways.

No development, including site improvements and land disturbing activity involving fill or regrading shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in § 9.4.3. of this Article demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

Section 9.8.9. Limitations on placement of fill.

Subject to the limitations of this Article, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

Section 9.8.10. Limitations on sites in coastal high hazard areas (Zone V).

In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by § 9.4.3.(D) of this Article demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with § 9.8.14.(H) of this Article.

Section 9.8.11. Manufactured homes.

- A. General. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to F.S. § 320.8249, and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this Article. If located seaward of the coastal construction control line,

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all manufactured homes shall comply with the more restrictive of the applicable requirements.

- B. Foundations. All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:
1. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.2 and this Article; and
 2. In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.3 and this Article.
- C. Anchoring. All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring include use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.
- D. Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply with one of the following requirements, as applicable:
1. General elevation requirement. Unless subject to the requirements of § 9.8.11.D.2. of this Article, all manufactured homes that are placed, replaced, or substantially improved on sites: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V);
 2. Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to § 9.8.11.D.1. of this Article, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:
 - a. Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V); or
 - b. Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.
- E. Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322 for such enclosed areas, as applicable to the flood hazard area.

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- 829
- 830 F. Utility equipment. Utility equipment that serves manufactured homes, including electric, heating,
- 831 ventilation, plumbing, air conditioning equipment, and other service facilities shall comply with the
- 832 requirements of the Florida Building Code, Residential Section R322, as applicable to the flood hazard
- 833 area.
- 834

835 **Section 9.8.12. Recreational vehicles and park trailers.**

836

- 837 A. Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas
- 838 shall:
- 839
- 840 1. Be on the site for fewer than 180 consecutive days; and
- 841
- 842 2. Be fully licensed and ready for highway use, which means the recreational vehicle or park model
- 843 is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and
- 844 security devices, and has no permanent attachments such as additions, rooms, stairs, decks, and
- 845 porches.
- 846
- 847 B. Permanent placement. Recreational vehicles and park trailers that do not meet the limitations in §
- 848 9.8.12.A. of this Article for temporary placement shall meet the requirements of § 9.8.11. of this
- 849 Article for manufactured homes.
- 850

851 **Section 9.8.13. Tanks.**

852

- 853 A. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation,
- 854 collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions
- 855 of the design flood, including the effects of buoyancy assuming the tank is empty.
- 856
- 857 B. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements
- 858 of § 9.8.13.C. of this Article shall:
- 859
- 860 1. Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the
- 861 tanks are anchored or otherwise designed and constructed to prevent flotation, collapse, or
- 862 lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the
- 863 design flood, including the effects of buoyancy assuming the tank is empty and the effects of
- 864 flood-borne debris; and
- 865
- 866 2. Not be permitted in coastal high hazard areas (Zone V).
- 867
- 868 C. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be attached to and
- 869 elevated to or above the design flood elevation on a supporting structure that is designed to prevent
- 870 flotation, collapse, or lateral movement during conditions of the design flood. Tank-supporting
- 871 structures shall meet the foundation requirements of the applicable flood hazard area.
- 872
- 873 D. Tank inlets and vents. Tank inlets, fill openings, outlets, and vents shall be:
- 874

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1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

Section 9.8.14. Other development.

- A. General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this Article or the Florida Building Code, shall:
 1. Be located and constructed to minimize flood damage;
 2. Meet the limitations of § 9.8.8. of this Article if located in a regulated floodway;
 3. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
 4. Be constructed of flood damage- resistant materials; and
 5. Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.
- B. Fences in regulated floodways. Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of § 9.8.8. of this Article.
- C. Retaining walls, sidewalks and driveways in regulated floodways. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 9.8.8. of this Article.
- D. Roads and watercourse crossings in regulated floodways. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways, shall meet the limitations of § 9.8.8. of this Article. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of § 9.4.3.C. of this Article.
- E. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios, and similar nonstructural uses in coastal high hazard areas (Zone V).

In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios, and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

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1. Structurally independent of the foundation system of the building or structure;
2. Frangible and not reinforced, to minimize debris during flooding that is capable of causing significant damage to any structure; and
3. Have a maximum slab thickness of not more than four inches.

F. Decks and patios in coastal high hazard areas (Zone V). In addition to the requirements of the Florida Building Code, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:

1. A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck;
2. A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures;
3. A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures; and
4. A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

G. Other development in coastal high hazard areas (Zone V).

In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state, or local authority; if located outside the footprint of and not structurally attached to buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

1. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

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2. Solid fences, privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and
3. On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

H. Nonstructural fill in coastal high hazard areas (Zone V).

1. Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
2. Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
3. Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

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Chapter 1. Subdivisions

Section 10.1.1. Purpose and Intent

The purpose and intent of this Article is to establish the procedures for the subdivision and re-subdivision (replats) of land in accordance with Chapter XXX>XXX Florida Statutes and this Code.

Section 10.1.2 Applicability and Process.

A. Applicability. This Section shall apply to any subdivision or re-subdivision of land in the City.

1. No subdivision shall be platted or recorded, no lot shall be sold, and no building or development permit be issued unless the subdivision meets all applicable laws of the state, this code, and has been approved by the City in accordance with the requirements of this Article.
2. This section shall not apply to any land forming part of a subdivision created and recorded prior to effective date of the ordinance from which this article is derived, but it shall apply to any re-subdividing (replats) of previously approved subdivisions and all new subdivisions.
3. It is not intended by the provisions of these regulations to repeal, abrogate, annul or in any way, impair or interfere with private restrictions placed upon property by deed, covenant, or private agreement except that where this article imposes higher standards than imposed by such deeds, covenants, or private agreements then the provisions of this article shall apply. The City shall not be responsible for enforcement of such deeds, covenants, or agreements.

B. Unless otherwise exempt from this Section or approved as a lot split, all subdivision of land is subject to a three-step review process consisting of:

1. Preliminary subdivision approval;
2. Construction plan approval; and
3. Final Plat approval and recording.

Section 10.1.3 General Requirements.

- A. All division of land in the City shall occur only as a subdivision, a replat, or a lot split. The requirements for lot splits are set forth in Article 3, Chapter X, Section Y.
- B. No lot split shall be recognized by the City, no lot that is part of a lot split shall be sold, and no building permit shall be issued unless the lot split has been approved by the City prior to recording in accordance with the requirements of Article 3, Chapter X, Section Y.
- C. A Preliminary Subdivision depicts the design of the proposed subdivision and the extent and location of any required improvements. The Preliminary Subdivision review and approval process follows the same requirements for an Administrative Permit as set forth in Article 3 of this Code. Following

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Preliminary Subdivision approval, applicants may then seek construction plan and Final Plat approval. A Final Plat is approval and recording of the legal subdivision of land subject to Florida Statutes 177.011—177.151.

- D. Construction plans depict the detailed engineering and construction plans to develop a subdivision and all required improvement, in accordance with the approved preliminary subdivision.
- E. No final plat of any subdivision shall be recorded in the office of the Lee County Clerk until the subdivision or replat has been duly approved by the City in the manner prescribed herein.
- F. All final plats shall be recorded by the Lee County Clerk according to the standards and legal form required by Florida Statutes 177.
- G. It shall be unlawful for the owner or agent of the owner of any land in the City to transfer, sell, or convey land by reference to, exhibition of, or other use of a plat of a subdivision of such land without having recorded an approved final plat with the Lee County Clerk as required herein. If such unlawful use is made of a plat before it is properly approved and recorded, the owner or agent shall be guilty of a misdemeanor of the first degree, punishable as provided in Florida Statutes 665.083 or Florida Statutes 775.082.

Section 10.1.4 Preliminary Subdivision Approval.

- A. Purpose and intent. The purpose of the Preliminary Subdivision is to present the proposed subdivision design and proposed improvements in sufficient detail in order that it may be evaluated pursuant to this Code.
- B. Preliminary Subdivision procedures.
 - 1. Community Development Department Review. Applications for a preliminary subdivision are filed with the Community Development Department and reviewed in the same manner as administrative approvals, in accordance with Article 3, Chapter 1 of this Code.
 - 2. Specific preliminary plat submittal requirements. All Preliminary Subdivisions must comply with the City of Cape Coral Technical Guidelines for Subdivision Approval, which are hereby incorporated by reference.
 - 3. Staff review and recommendation. When the Development Services Manager determines that the Preliminary Subdivision and required data meet the provisions of this section and the City Engineering Administrative Rules, a written recommendation shall be submitted to the applicant and the Director.
 - 4. Decision. Upon receipt of the recommendations of the Development Services Manager, the Community Development Director shall determine if additional information or review is determined necessary to make a decision or shall either approve, approve with conditions, or disapprove the preliminary subdivision. When an application is disapproved, the Director shall state the reasons for disapproval and indicate what further actions, if any, by the applicant may

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be undertaken to bring the proposed Preliminary Subdivision into compliance with the City comprehensive plan or this Land Development Code.

- C. Applications for construction plan approval and Final Plats. Following Preliminary Subdivision approval, the applicant may proceed with applications for:
1. Construction Plan review approval (see X); and
 2. Final Plat review and approval (see X).
- D. Expiration. The Preliminary Subdivision approval shall expire and be of no further force and effect if a completed application for a final plat or construction plans is not filed within one year of Preliminary Plat approval. After expiration of one year, the applicant will be required to re-submit the Preliminary Subdivision for review and approval as set forth in this Article.

Section 10.1.5 Construction Plans

- A. Application required. The applicant shall submit construction plans for required improvements for a subdivision. No construction shall be initiated until the applicant has received requisite design approvals and complied with applicable provisions of this article, including the following:
1. Timing. Applications for construction plan approval must be submitted within twelve (12) months of approval of the Preliminary Subdivision by the City. Applications for approval of subsequent phases, if any, shall occur within twelve (12) months of the issuance of a certification of completion of the previous phase. Failure to submit for construction plan approval within a specified amount of time shall require reapplication under the Preliminary Subdivision requirements of this Article. Applicants may not apply for construction plan approval for any portion of the Preliminary Subdivision that is not to be constructed within the following twelve (12) months. Failure to make application for construction plan approval within required time periods may result in revocation of a Preliminary Subdivision, unless the applicant has applied for an extension from the Community Development Director prior to the lapse. The request for the extension must be made in writing and filed with the Community Development Director a minimum of ninety (90) days prior to the expiration date. The applicant shall demonstrate good cause for the extension. The Community Development Director may extend the prescribed time period up to twelve (12) months if the applicant has progressed in good faith toward the implementation of the Preliminary Subdivision.
 2. Approval. The Development Services Manager must find that the proposed construction is in compliance with the approved Preliminary Subdivision and the requirements of this Article. The Development Services Manager may approve, conditionally approve, or deny the application for construction plan approval. Upon approval, the applicant may proceed with construction of the required improvements. Any departures from the Preliminary Subdivision approval must be approved by the Community Development Director.
- B. Administration of construction. After approval of the construction plans, the applicant may construct the required improvements, subject to obtaining all required permits. The Development Services

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Manager shall be notified in advance of the date of commencement of such construction and the applicant shall schedule a preconstruction meeting where representatives of the developer, the City, contractors, and franchise utilities shall discuss the construction of the subdivision improvements. The Development Services Manager may waive the preconstruction meeting if the improvements associated with subdivision do not warrant such detailed review and discussion.

- C. Supervision and inspection by the Development Services Manager. Construction shall be performed under the supervision of, and shall at all times be subject to review by the Development Services Manager or other representative designated by the City. However, this in no way shall relieve the applicant and his engineer of the responsibility for close field coordination and final compliance with the approved plans, specifications, and the requirements of this article.
- D. Construction administration by state registered engineer. The applicant shall employ a Florida registered engineer for complete administration of the construction of the required improvements. The applicant shall require progress reports and final certification of the construction of the required improvements from such engineer be filed with the Development Services Manager.
- E. Right to enter. The Development Services Manager or duly authorized representative shall have the right to enter upon the property for the purpose of inspecting the quality of materials and workmanship and reviewing the construction of required improvements during the progress of such construction.
- F. Stop work orders. The Development Services Manager shall have authority to stop work upon failure of the applicant or his engineer to coordinate the construction of the required improvements prescribed by this article.
- G. Final inspections. Upon completion of the required improvements, the applicant's engineer shall give the Development Services Manager not less than three (3) working days' notice to make the final inspection of the required improvements, landscaping, and sign installations. The Development Services Manager shall have the authority to withhold or deny approval of certificates of occupancy relative to buildings or structures of a subdivision until the construction and installation of required improvements of that subdivision have been satisfactorily completed pursuant to the provisions of this Land Development Code.
- H. Electronic file. The applicant of a Preliminary Subdivision Plat or a final plat shall submit to the Development Services Manager an electronic file of all approved illustrations, including Preliminary Subdivision Plat, final plat, and construction plans, in a format acceptable to the City. The Development Services Manager may waive this requirement if the applicant demonstrates that creation of such electronic files is a hardship. The final plat shall not be recorded and the Development Services Manager shall not issue a certificate of completion until any required electronic file is submitted to the Development Services Manager.
- I. Acceptance and maintenance of required improvements.
 - 1. The City shall not release or allow development of a subdivision until the required dedications and public improvements are in place and comply with the requirements of this Land Development

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Code. Required improvements shall not be considered complete until a completion certificate, along with the final project records, including three (3) sets of as-built drawings certified by an appropriate professional registered in the state, have been furnished to, reviewed, and approved by the Development Services Manager. The certificate shall be certified by the applicant's engineer stating that the required improvements were installed under his responsible direction and that the improvements conform to the approved construction plans and this article. The engineer shall also furnish a copy of each of the construction plans on a high quality, durable reproducible material acceptable to the Development Services Manager, showing the original design in comparison to the actual finished work and a copy of the measurements, tests, and reports made on the work and material during the progress of the construction.

2. The applicant's engineer shall furnish to the Development Services Manager in writing a sealed and signed certificate stating that the required improvements have been completed in accordance with the approved plan and comply with this article and all other applicable codes. Any recommendations for acceptance of the dedication shall be subject to the inspection and approval of the Development Services Manager. The Development Services Manager shall accept the subject dedications at such time as all improvements meet or exceed the standards set forth by this article. The Development Services Manager may require laboratory or field tests as well as staged inspections at the expense of the applicant when appropriate. Any failure of work or materials to conform to the plans and specifications or failure to notify the City in time for indicated inspections shall be cause for the City Council to reject the facilities.
3. Where a final plat is recorded prior to completion of required improvements, pursuant to subsection **D (3)**, the City shall not accept maintenance or liability responsibilities until such time as the Development Services Manager determines that all improvements and dedications comply with the technical and procedural standards of this LDC. The applicant shall retain maintenance and liability responsibility until the City accepts the improvement.

J. Applicant's failure to complete required improvements.

1. Premature recording of plats or failure of applicant to complete required improvements. When a plat has been recorded and the applicant fails to complete the required improvements as required by this article, the City shall require the completion of the required improvements under the guarantees provided by the applicant. In such case, the City shall call upon the guarantees to secure satisfactory completion of the required improvements. Legal notice of such action shall be deemed to have been duly served upon posting via certified mail return receipt requested. Upon the completion of construction of the required improvements, the Development Services Manager shall report to the City Council and the City Council shall accept by resolution the dedications and maintenance responsibility as indicated on the plat. In such cases, the remaining guarantees posted by the applicant shall be retained for a period of one (1) year after completion in lieu of the agreement. Any defects occurring during this period shall be repaired using funds remaining in the guarantee.
2. In cases where plat has not been recorded. Where an applicant has elected to install the required improvements prior to approval of, and prior to recording of the plat and fails to complete such improvements within the time limitations of this article, all approvals of the subdivision shall be null and void and the land shall revert to its original state. No reference shall be made to the plat

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with respect to the sale of lots or issuance of building permits, unless and until the plat has been resubmitted with all of the supplementary material and approvals as herein prescribed have been granted.

Section 10.1.6 Final Plats.

- A. Final plat approval procedures. The Final Plat shall incorporate all changes or modifications required in the Preliminary Subdivision approval. To the extent that any such modifications have not been made, the applicant shall indicate in writing as part of the application the grounds for any such departure.
- B. Staff review. Upon receipt of the final plat, the City shall review the plat for completeness and adherence to the approved preliminary subdivision and attached conditions, if any. If the final plat is substantially in accord with the approved preliminary subdivision and all previous requirements, fulfills all attached special conditions, is complete, and reflects all required certifications and dedications, the Community Development Director shall approve the final plat. The final plat is then scheduled for City Council approval.
- C. Revisions after final plat approval and prior to recordation.
2. Any changes, erasures, modifications, or revisions to an approved plat prior to recordation may only be made by the Community Development Director to correct scrivener's errors, reflect accurate legal descriptions, or to locate right-of-way dedications, drainage ways, and easements. However, no such request shall be considered unless the application is made by the preparer of the final plat.
3. No other changes, erasures, modifications, or revisions may be made to an approved final plat prior to recordation unless a new application and fee are submitted for review and approval.
- D. After the final plat has been approved and certified by the Community Development Director that it complies with all applicable requirements of this Code, the Mayor and City Clerk shall indicate such approval on the final plat by signing the certificate of approval for recording.
- E. Recording. The final plat shall then be recorded by the applicant within twenty (20) days of certificate of approval in the public records of Lee County. After recordation of the final plat, the Community Development Director shall obtain from the applicant a full size certified copy of the recorded final plat.
- F. Building permits. No building permits for residential or residential accessory structures shall be issued until the final plat has been recorded and all subdivision improvements required in Cape Coral Engineering and Design Standards (e.g., monuments, streets, sidewalks, parks, fire hydrants) have either been completed or sufficiently bonded on a form to be reviewed and approved by the City Attorney.
- G. Withholding of public improvements. The City shall withhold all public improvements including the maintenance of streets, the furnishing of sewage facilities and water service from all subdivisions that

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have not been approved, and from all areas dedicated to the public which have not been accepted in the manner set forth herein.

- H. Schedule of development phases. The applicant may schedule proposed development phases within any proposed subdivision. The scheduled development phases shall have been specified on the approved Preliminary Subdivision and shall be of such a size and design and be scheduled so that all portions completed at any time can exist independently as a subdivision in complete conformity with the requirements of this article. Any change in the schedule of phases must receive prior approval by the Development Services Manager. If phased, the applicant shall have the option of requesting either final plat approval or issuance of a certificate of completion on one (1) or more of the development phases in conformity with all the procedures and requirements of this article.

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ARTICLE 11 – DEFINITIONS**

CHAPTER 1. GENERAL PROVISIONS

Section 11.1. Purpose and Intent

- A. This chapter is intended to define terms used in the Land Development Code (LDC) and provide clarity in the LDC.
- B. Unless the context clearly indicates a different meaning, the following definitions shall be used to interpret the provisions of the LDC.
- C. Words whose meanings are self-evident as used in this Code are not defined here. Undefined terms that are commonly used may be defined using a dictionary. Words used in the present tense shall include the future; the singular includes the plural, and vice versa.
- D. Certain definitions may not be in alphabetical order and may be organized according to a common term or subject heading.
- E. The definitions in the Article may be different from the definitions used in the City of Cape Coral Code of Ordinances.

CHAPTER 2. GENERAL DEFINITIONS

Abandoned Structure, is any structure which has ceased to be used for its designed and intended purpose.

Abandonment, is the relinquishment or cessation of the use of property by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property. Often in reference to an easement or a right-of-way.

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

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

Access Drive, is a driving surface leading from a right-of-way to a parking area.

Accessory Dwelling Unit (ADU), is a separate housekeeping unit from the **primary dwelling** (define) with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure.

Accessory Building or Structure, a subordinate building or structure, the use of which is customarily incidental the main building or to the main use of the land and which is on the same site as the main building or use.

Accessory Use, is a use that is incidental to and subordinate to the main building or use of land and that is on the same lot and under the same ownership in all respects.

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Addition, any construction that increases the size of a building in terms of site coverage, height, length, width, or gross floor area.

Adjoining or Abutting, means two properties share at least one common point or property line.

Adjacent, means two properties that are separated by a public right of way, canal, or alley.

Adult Day Care Center means any building or buildings, operated for profit or not, which provides daytime, basic care services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services.

Adult Entertainment Establishment or Use, ~~is a use which is distinguished or characterized by an emphasis on materials depicting, describing or relating to specified sexual activities or specified anatomical areas either by observation or participation by the patrons or employees of that use. Specified uses are found in F.S. Ch. 847.001 and include, adult bookstores, adult theaters, unlicensed massage establishments, and adult special cabarets.~~ Use the definition of sexually oriented business from LUDR and refer to Chapter 12, Article 6 of COE

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

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

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

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

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

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

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

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

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

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

Arbor, is a n structure on which plants and vines can grow.

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



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

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

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

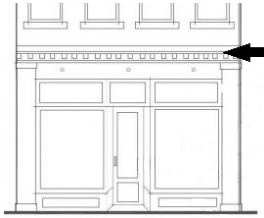
Auditorium or Assembly Hall, a building with facilities to accommodate groups of people.

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



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

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

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

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

Bed and Breakfast, means a transient lodging establishment, generally in a single-family dwelling or detached guesthouses, primarily engaged in providing overnight or otherwise temporary lodging for the general public and may provide meals for compensation.

Berm, A mound or earthen ridge placed above natural or existing grade for the purpose of shielding, screening, mitigating impacts from or otherwise separating areas of dissimilar use, to provide visual interest, accommodate landscape improvements, or control the direction and flow of water.

Best Management Practices (BMP), is the combination of conservation measures, structures, or management practices that reduces or avoids adverse impacts of development on adjoining site's land, water or waterways, and waterbodies.

Bike Lane, is a corridor expressly reserved for bicycles.

Bio-Retention Area, A shallow planted depression designed to retain or detain stormwater before infiltration or discharge. Plants used in bio-retention areas must be able to survive without fertilizer or other artificial means.

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

Boat, is a vessel designed for operation as a watercraft propelled by oars, sails, or internal combustion engine(s). A boat shall not be considered as a recreational vehicle even though may have facilities for temporary living quarters.

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

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

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

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

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

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

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

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

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

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

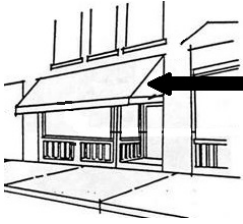
Bulkhead, means a shoreline stabilization structure including riprap or a seawall.

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

By-right, refers to uses requiring a permit with no public hearing required.

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

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

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

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

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

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

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

Add churches, religious facilities, places of worship

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

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

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

Colonnade (from LUDR)

Commercial Parking Lot,

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

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

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

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

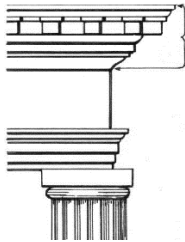
Conditional Use, are uses which are generally appropriate in a zoning district but have certain additional requirements to ensure the use is compatible. Conditional uses may be approved administratively as long as the required conditions are met and maintained.

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

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

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

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



Corrugated Metal,

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

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

Cul-de-sac, is a dead-end street terminated at the closed end by a circular vehicular turn-around.

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

Cupola, an ornamental structure placed above a larger roof.



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

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

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

Development, is any human-caused change to improved or unimproved real estate that requires a permit or approval from any agency of the city or county, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of materials.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Façade, is the exterior elevation of a structure or building as viewed from a single vantage point.
Family, any number of persons living together as a single housekeeping unit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Hotel, is an establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone

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and desk service. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities.

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

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

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

Industry, Light, includes research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building. Finished or semi-finished products may be temporarily stored outdoors pending shipment. Infrastructure, means facilities and services needed to sustain industry, residential, commercial, and all other land-use activities, including water, sewer lines, and other utilities, streets and roads, communications, and public facilities such as fire stations, parks, schools, etc.

Intensity, is the number of square feet of development per acre, or floor area ratio, by land use type with respect to non-residential land uses.

Invasive Species, means a species that is: 1) non-native to the ecosystem under consideration and. 2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

Kitchen, An indoor portion of a structure specifically designed and equipped for the preparation, service and storage of food. The kitchen shall be provided with, at a minimum, a functioning sink, range, oven, and refrigerator.

Laboratory, Research, is a building or group of buildings in which facilities for scientific research, investigation, testing, or experimentation are. This does not include facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

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

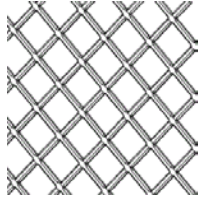
Landscape Plan, is a plan associated with a subdivision, land development, or parking facility plan indicating the placement of landscape materials, including specifications, species, quantities, and method of installation.

Landscaped Area, is an area set aside from structures and parking which is developed with natural materials (i.e. grass, trees, shrubs, vines, hedges, bedding plants, rock) and decorative features, including paving materials, walls, fences, and outdoor furniture.

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Landscaping, is the finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment may also include the use of logs, rocks, fountains, water features, and contouring of the earth.

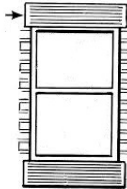
Lattice, is an ornamental criss-crossed framework, an arrangement of crossing laths or other thin strips of material which allows light and air to pass between the openings.



Light Pollution, means any adverse effect of artificial light including, but not limited to, glare, light trespass, skyglow, energy waste, and impacts on the nocturnal environment.

Lighting, Fully Shielded/Cutoff, means any outdoor light fixture shielded in such a manner that all light emitted by the fixture is projected below the horizontal as determined by a photometric test or certified by the manufacturer.

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



Loading Space, is an off-street space, having a minimum width of 10 feet, length of 30 feet, and height clearance of 14 feet, on the same lot with a building or group of buildings for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

Local Planning Agency, is the City of Cape Coral Planning and Zoning Commission when reviewing matters related to the Comprehensive Land Use Plan as specified in F.S. Chapter 160.

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

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

Lot, Corner, A lot which abuts on two or more intersecting streets at their intersection, but is not to include wing streets at cul-de-sac locations; wing streets at locations where road angles or turns and the wing street is less than 120 feet in length.

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

Lot, Double Frontage, is a lot having frontage on two nonintersecting streets, as distinguished from a corner lot.

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Lot, Flag, is a lot not meeting minimum lot frontage requirements at the street and where access to a right-of-way is provided by means of a long, narrow driveway between abutting lots.

Lot Lines, are the property lines bounding the lot.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Ornamental Wall,

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

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

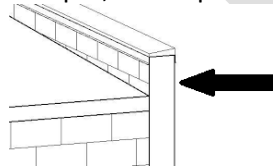
Outdoor Screened Storage, the keeping of any goods or products within a structure not defined as a building, or within a completely fenced or walled in area. The goods shall be screened by the structure, wall or fence so as not to be seen from any other property.

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

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

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

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



Parcel, means a contiguous land under one ownership.

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

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

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

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Parking, Shared, means joint use of a parking area by more than one use.

Paved, means ground covered with stone, brick, concrete, asphalt, or other substantial matter making a firm, smooth, and level surface.

Paver, is a grid block designed for use as a driving or parking surface, installed with cavities (either the kind in which grass can be planted or between the blocks) to minimize impervious surface and reduce runoff.

Pedestrian-Friendly/Oriented, means the density, layout, and infrastructure that encourages walking and biking within a subdivision or development, including limited setbacks, front porches, sidewalks, and bikepaths.

Pergola, is a structure, either freestanding or attached to a façade, usually consisting of parallel colonnades supporting an open roof of girders and cross rafters built as an outdoor element for partial shade.

Permit, Conditional Use, is a permit issued by the authorized board or hearing examiner stating that the conditional use meets all conditions set forth in this code.

Person, means individuals, partnerships, associations, and corporations.

Personal Services Establishment, is an establishment which offers specialized services purchased frequently by the consumer. Included are barbershops, beauty shops, chiropractic, dance studios, and massage clinics, garment repair, tailoring, shoe repair, pet grooming, indoor pet sitting, and beauty clinics, fitness centers, laundromats, drycleaners, photography and instructional studios, tattoo and piercing studio, martial arts studios, and other similar establishments. These uses may include accessory retail sales of products related to the services provided.

Pervious Surface, is any surface which allows a minimum of 80 percent precipitation from any source to infiltrate directly into the ground.

Pilaster, a rectangular column, especially one projecting from a wall.



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

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

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



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



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

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

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

Professional Services,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Screened, means obscured from public view.

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

Seawall, a wall built along a shoreline.

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

Septic Tank, see on-site sewage system.

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

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

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

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

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

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

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

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

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

- Private lots, yards, balconies, and patios dedicated for use by a specific unit.
- Public rights-of-way or private driveways.
- Open parking areas and driveways for dwellings.
- Land covered by structures, except for ancillary structures associated with the use of the open space such as picnic shelters or other similar site amenities.
- Designated outdoor storage areas.
- Areas not accessible by the public, such as areas enclosed by walls or fences.

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

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

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

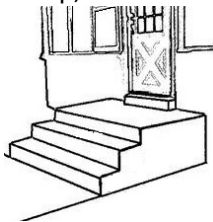
Special Event, a preplanned single gathering, event or series of related consecutive gatherings or events of an entertainment, cultural, recreational, educational, political, religious, or sporting nature, or any nature, that is sponsored by an individual or entity and is open to the public in general.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Vehicle Sales,

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

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

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

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

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

CHAPTER X. FLOODPLAIN MANAGEMENT DEFINITIONS

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

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

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

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

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

Best Management Practices (BMP), is the combination of conservation measures, structures, or management practices that reduces or avoids adverse impacts of development on adjoining sites land, water or waterways, and waterbodies.

Coastal Construction Control Line. The line established by the State of Florida pursuant to F.S. § 161.053, and recorded in the official records of the city, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

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Coastal High Hazard Area, A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal High Hazard Areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1 V30, VE, or V.

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

1. Area with a floodplain subject to a 1% or greater chance of flooding in any year; or
2. Area designated as a flood hazard area on the City flood hazard map or otherwise legally designated.

Design Flood Elevation, the elevation of the "design flood," including wave height, relative to the datum specified on the city's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to two feet.

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

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

Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Manufactured Home, A structure, transportable in one or more sections, which is eight feet or more in width and greater than 400 square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term Manufactured Home does not include a "recreational vehicle" or "park trailer." The term Manufactured Home shall also include the term "mobile home" as provided in Article 13. Definitions.

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

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

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

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

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

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

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

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

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

Start of Construction, the date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual Start of Construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Substantial Damage, Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50% of the market value of the building or structure before the damage occurred.

Substantial Improvement, Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a five-year period, the cumulative cost of which equals or exceeds 50% of the market value of the building or structure before the improvement

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or repair is started. For each building or structure, the five-year period begins on the date of the first improvement or repair of that building or structure subsequent to August 17, 1981. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; and
2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

CHAPTER X. MARINE IMPROVEMENT DEFINITIONS

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

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

Boat Canopy, A removable protective cover installed to cover a boat located in the principal mooring area of a dock or over a boat lift; a boat canopy designed and intended for the purpose of protecting a marine vessel from damage from the elements and is fastened to, erected on, or installed on a marine improvement. Covers that protect marine vessels from the elements, but that fasten only to the marine vessel and not, in any way, to a marine improvement shall not be deemed to be boat canopies.

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

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

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

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

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

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

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- 1302
- 1303 Corner Parcel, is a parcel that either touches or is on both sides of an interior corner of a lake, basin, or
- 1304 canal.
- 1305
- 1306 Corner, Waterway, is the meeting of two sides which create an angle less than 180 degrees.
- 1307
- 1308 Cut-In Boat Slip, is a place for a boat to moor, created within a parcel through excavation or removal of
- 1309 soil and rock material and construction of a seawall around that area.
- 1310
- 1311 End Parcel, a waterfront parcel where any part of the parcel abuts or includes within its boundaries any
- 1312 part of the canal end line or any part of an extension of a side line between the side line and the canal
- 1313 end line.
- 1314
- 1315 Fender Post, is a post inserted into the canal bottom and fastened to the dock or seawall to prevent
- 1316 damage to the vessel when tied alongside the dock or seawall.
- 1317
- 1318 Marine Improvement, means a whole, constructed marine structure including, but not limited to,
- 1319 dock, boat lift, mooring posts, walkways, and other interconnecting parts. A boat canopy, its supports,
- 1320 and its frame shall not be considered to be a part of the marine improvement to which they are
- 1321 attached.
- 1322
- 1323 Marine Improvement Area, is that area enclosed by the water frontage line, the offset line, and lines
- 1324 connecting the ends of the offset line to corresponding offset points.. See Diagram 5.5.4.E.
- 1325
- 1326 Mean Water Level, in regard to fresh water waterways, the elevation established at the downstream
- 1327 weir, and, in regard to saltwater waterways, the mean high water of +013 feet National Geodetic
- 1328 Vertical Datum of 1929 (NGVD-29).
- 1329
- 1330 Mooring Piles, posts, meant for tethering a watercraft to, which are anchored into the floor of a
- 1331 waterbody.
- 1332
- 1333 Navigable Channel, means that portion of the waterway width in which no marine improvement may
- 1334 lawfully be constructed. The access width of the waterway shall be calculated by subtracting from the
- 1335 calculated waterway width twice the maximum distance that a marine improvement located along one
- 1336 side of the waterway could lawfully project.
- 1337
- 1338 Offset Point, means the distance from the property line where a marine improvement may be built. See
- 1339 Diagram 5.5.4.C.
- 1340
- 1341 Outside Corner parcel, means a parcel of land which projects into one or more waterways so as to have
- 1342 two or more sides abutting such waterway(s).
- 1343
- 1344 Quay, a modified seawall where a boat can dock parallel to the shore.
- 1345
- 1346 Water Frontage Line, means the line at which a waterfront parcel abuts the waterway. If the
- 1347 waterfront parcel has a seawall, the seawall face shall be deemed the water frontage line for the

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parcel. For waterfront parcels that have a property line, but no seawall, abutting the waterway, such property line shall be deemed the water frontage line. See Diagram 5.5.4.A.

Waterfront Parcel, means a parcel which abuts a waterbody.

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

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

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

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

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

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

CHAPTER X. TRUCK AND VEHICLE PARKING DEFINITIONS

SINGLE-FAMILY RESIDENTIAL. Includes property zoned R-1 and RE, and Agricultural, RML or RMM when used for single-family residential purposes.

MULTI-FAMILY RESIDENTIAL. Include property zoned RML and RMM when developed as multi-family. (and duplexes? Single-family attached?)

INDUSTRIAL and AGRICULTURAL. Include property zoned I and A when not used for single-family residential purposes.

COMMERCIAL and PROFESSIONAL. shall include property zoned C, CC, INST, PV, P-1, NC, MX, MX B, MX SI, and SC.

COMMERCIAL LETTERING. Letters, numbers, symbols, or combinations thereof which advertise a trade, business, industry, or other activity for profit or a product, commodity, or service. The term shall not include bumper stickers affixed to bumpers only or the decal or plate commonly applied to a motor vehicle by a motor vehicle dealer.

COMMERCIAL RACK. Any frame, device, or other apparatus that is designed and constructed for the primary purpose of carrying tools, building materials, or merchandise. Racks designed and constructed for carrying luggage or sporting equipment, such as kayaks, canoes, or bicycles, shall not be considered to be **COMMERCIAL RACKS** so long as they are used for the purpose of carrying the aforesaid items. Furthermore, a rack designed and constructed for carrying a ladder (a "ladder rack") that is attached to

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a motor vehicle shall not be considered to be a **COMMERCIAL RACK**, provided the ladder rack is not wider than the vehicle to which it is attached and no part of such ladder rack extends more than 16 inches above the cab of the vehicle or extends beyond the tailgate of the vehicle.

COMMERCIAL VEHICLE. An agricultural, construction, or industrial motor vehicle or any bus, step van, truck, or truck tractor. The term shall include any motor vehicle (including automobiles) upon which commercial lettering, as defined herein, has been affixed. The term shall also include a pickup truck from which the cargo box has been removed. Any motor vehicle with one or more tools (including a ladder), building materials, or merchandise visible from the street or abutting residential property, or a "commercial rack" that is visible from the street or abutting residential property shall be deemed a commercial vehicle. A passenger automobile or sports utility vehicle (SUV) containing commercial lettering shall not be considered a commercial vehicle for purposes of this section so long as the commercial lettering on the vehicle does not contain any reference to the residential address at which the automobile is parked.

LIGHT VAN. Any motor vehicle having a generally rectangular bulk, which is licensed and registered for operation upon public highways and which has a carrying capacity of no more than one ton or no more than nine passengers.

OWNER. When used in relation to a motor vehicle or trailer, any person to whom a motor vehicle or trailer is registered according to the certificate of title for the motor vehicle or trailer and, if the motor vehicle or trailer is under lease, rental agreement, or on loan under any type of arrangement, gratuitous or otherwise, shall include the person having possession or control of the vehicle. When used in relation to privately real property in a residential zoning district, the term shall mean the owner according to the latest ad valorem tax records of the county and, if the privately property is under lease, rental agreement, agreement for deed, or similar land contract shall include the person in possession and control of the property.

PICKUP TRUCK. Any motor vehicle designed primarily for the transportation of property within a permanently attached open cargo box and having a gross motor vehicle weight of no more than 17,500 pounds, a height of no more than 82 inches (measured from the ground to the vehicle's highest point excluding antennae), no more than six wheels, and no more than two sides.

SCREENING. A visual barrier consisting of permanent, dense vegetation, or other permitted structure at least equal in height to the recreational vehicle, boat, or boat trailer but which does not violate any height limitation for barriers in the applicable zoning district.

TRAILER. Any vehicle without motive power designed for carrying persons or property on its own structure and to be drawn by a motor vehicle regardless of hitch type.

TRAILER, BOAT. A trailer that is designed and constructed by the manufacturer for the primary purpose of carrying and launching a boat.

TRUCK. Any motor vehicle, other than a pickup truck or light van, designed primarily for the transportation of property or cargo.

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VEHICLE FOR HUMAN HABITATION. A house car, camp car, camper, house trailer, or any vehicle by whatever name known, school bus, or other bus designed or adaptable for human habitation, whether such vehicle moves by its own power or by power supplied by a separate vehicle.

CHAPTER x. SIGN DEFINITIONS

This chapter defines terms that are used in Article 7 - Signs.

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

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

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

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

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

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

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

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

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

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

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

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Sign, Animated, is a sign with action or motion using electrical energy, electronic or manufactured sources of supply, or wind actuated elements, including rotating, revolving, or flashing signs against which it is placed, excluding the necessary supports or uprights on which such sign is placed.

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

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

Sign, Building Identification, is a sign on a building with a main entry that depicts only the name of the building. Building identification signs on the exterior of a building or behind a glass enclosure, window, glass facade, or any other transparent surface material, and visible from the outside of the building are considered signs.

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

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

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

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

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

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

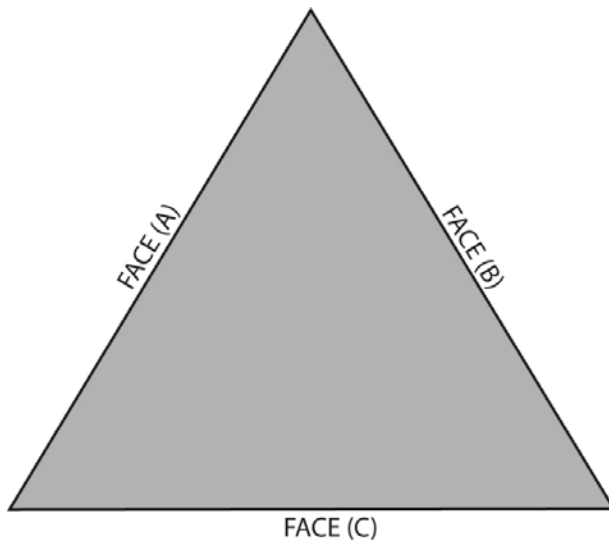
Sign, Façade, see "wall sign."

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

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- 1531 Sign, Free Standing, includes ground signs, pole signs, and monument signs which are supported by one
1532 or more columns, uprights, or braces anchored into the ground independent of support from any building.
1533
- 1534 Sign, Fuel Pump Valance, is any permanent sign attached to the top of a fuel pump.
1535
- 1536 Sign, Garage Sale, is any sign pertaining to the sale of personal property in, at or upon any residentially
1537 zoned property located in the City, to include yard sales, moving sales, and the like. Garage sales shall
1538 include all such sales and include the advertising of the holding of any such sale, of the offering to make
1539 any sale, whether made under any other name such as lawn sale, yard sale, moving sale, front yard sale,
1540 back yard sale, home sale, attic sale, rummage sale, patio sale, flea market sale, or any similar designation.
1541 Limited to five square feet in area. See "Residential Transitory Sign".
1542
- 1543 Sign, Ground, see Sign, Monument.
1544
- 1545 Sign Height, means the vertical distance to the highest point of a sign. Freestanding signs shall be
1546 measured from the crown of the nearest abutting street or sidewalk.
1547
- 1548 Sign, Identification, is a sign which contains no advertising and the message of which is limited to
1549 conveying street numbers, the name, address, and numbers of the premises, or the name of the owner
1550 or occupant of the premises.
1551
- 1552 Sign, Illuminated, is a sign in which a source of light is used to make the message readable. This shall
1553 include internally and externally lighted signs.
1554
- 1555 Sign, Instructional, is a sign conveying instructions with respect to the premises on which it is maintained,
1556 such as, but not limited to, "exit," "entrance," "parking," or similar instructions.
1557
- 1558 Sign, Monument, is a freestanding sign supported primarily by an internal structural framework or
1559 integrated into landscaping or other solid structural features other than support poles.
1560
- 1561 Sign, Multi-faced, means a sign with more than two (2) faces.

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

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

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

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

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

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

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

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

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

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- 1590 wheels; attached temporarily or permanently to the ground, structure, or other signs; menu and sandwich
1591 boards, searchlight stands; and tethered inflatable signs.
1592
- 1593 Sign, Projecting Blade, is any sign hung or projecting perpendicular to the building. Maximum allowable
1594 area is four square feet.
1595
- 1596 Sign, Projecting, is a sign projecting at an angle from the outside wall or walls of any building which is
1597 supported by only one rigid support, irrespective of the number of guy wires used in connection
1598 therewith.
1599
- 1600 Sign, Public, is a sign placed under the authority of duly authorized government officials, including traffic
1601 signs, legal notices, public safety signs, or signs placed by such authorized official for the public health,
1602 safety, welfare, or convenience.
1603
- 1604 Sign, Real Estate, is any sign installed by the owner or his agent on a temporary basis, advertising the real
1605 property upon which the sign is located for rent, sale, or lease.
1606
- 1607 Sign, Residential Transitory, means specific types of temporary signs which may be displayed for three
1608 consecutive days only. These signs are intended to facilitate garage sales, estate sales, moving sales, yard
1609 sales, neighborhood meetings, HOA meetings and the like. See "Garage Sale Sign" and "Estate Sale Sign".
1610
- 1611 Sign, Revolving, see Animated Sign
1612
- 1613 Sign, Roof, is any outdoor advertising display sign, installed, constructed, or maintained above the roof
1614 line of any building.
1615
- 1616 Sign, Sandwich, see A-Frame Sign
1617
- 1618 Sign, Rotating, see Animated Sign
1619
- 1620 Sign, Snipe, is any sign of any size, made of any material, including but not limited to paper, cardboard,
1621 wood, and metal, when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to trees,
1622 poles, fences or other objects, and the advertising matter appearing thereon is not applicable to the
1623 premises upon which said sign is located.
1624
- 1625 Sign, Special Event, is any temporary sign announcing special events.
1626
- 1627 Sign, Swinging, is any sign that swings freely from or on supports regardless of the guy wires used in
1628 connection therewith.
1629
- 1630 Sign, Temporary, is a sign that advertises for a specific limited period of time, political candidates, parties,
1631 or issues, a building under construction, business grand opening, other special events and model homes.
1632 Sign, Time and Temperature, is a display containing illuminated numerals flashing alternatively to show
1633 the time and temperature.
1634
- 1635 Sign, Trailer, is any sign installed on a frame or structure with wheels other than a motor vehicle.

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

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

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

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

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

Chapter X. Wireless Telecommunications Definitions

This chapter defines terms related to requirements in Article 5, Chapter 12. Wireless Telecommunication.

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

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

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

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

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

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

FAA, means the Federal Aviation Administration.

FCC, means the Federal Communications Commission

Monopole, is a style of free-standing tower that is composed of a single shaft, usually composed of two or more hollow sections that are in turn attached to a foundation, with external antennas. This type of tower is designed to support itself without use of guy wires or other stabilization devices.

Pole-Mounted, means an antenna attached to or upon an electric transmission or distribution pole, a streetlight, a traffic signal or similar facility within the public right-of-way or a utility easement. A utility pole-mounted facility shall not be considered a wireless telecommunication facility.

Structure-Mounted, means a wireless telecommunications facility, tower or antenna which is mounted to an existing building or structure not otherwise meant to support a wireless telecommunication facility, tower or antenna.

Wireless Communication, is the transmission and reception of voice, data or video transmission via radio frequency (RF) signals through electromagnetic energy.

Wireless Communication Facility (WCF), is any cables, wires, lines, wave guides, antennas, and other equipment associated with the transmission or reception of telecommunications installed upon a tower or antenna support structure, including ground-based equipment in direct support of such transmission or reception. However, the term "Wireless communication facility" shall not include amateur radio antennas.

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ARTICLE 12 - BUILDING CODE AND ENGINEERING DESIGN STANDARDS

Chapter 1. Adoption of codes: Florida Building Code, the National Electrical Code, International Property Maintenance Code, and Engineering Design Standards.

Section 12.1. Purpose, applicability, and definitions.

The following building codes are hereby adopted, incorporated herein by reference as fully as if set out at length herein, and shall govern all construction, erection, alteration, repair, and demolition of all buildings or other structures within the corporate limits of the city; and any appurtenances attached thereto, except those portions of the adopted codes that are hereinafter deleted, modified, or amended:

- A. 2010 Florida Building Code. The family of codes adopted by the Florida Building Commission, except as deleted, modified, or amended as indicated in Sections 11.2 and 11.3., below.
- B. National Electrical Code, 2008 Edition.
- C. International Property Maintenance Code, 2012 Edition, except as deleted, modified, or amended as indicated in Section 11.4., below.
- D. City of Cape Coral Engineering Design Standards, 2002, as amended.

Section 12.2. 2010 Florida Building Code, Building.

Amendments to adopted code. All sections of the 2010 Florida Building Code, Building are in effect except as amended as shown below:

A. Section 107. Submittal Documents.

107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R, Sections 59 and 60), the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to Section 105-14 and Section 107.6. shall not extend to the flood load and flood resistance construction requirements of the Florida Building Code.

B. Section 115. Stop Work Orders.

115.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a stop work order. In addition, the building official is authorized to issue a stop work order for the failure to contain or remove construction refuse as required in the Code of Ordinances, Chapter 9, Health and Sanitation.

115.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work. Upon issuance of a stop

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work order, all work on the construction site shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

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

C. Section 117. Variances in Flood Hazard Areas.

117.1 Flood hazard areas. Pursuant to F.S. § 553.73, the variance procedures adopted in the City of Cape Coral Floodplain Management Ordinance shall apply to requests submitted to the Building Official for variances to the provisions of Section 1612.4 of the Florida Building Code, Building or, as applicable, the provisions of R322 of the Florida Building Code, Residential. This section shall not apply to Section 3109 of the Florida Building Code, Building.

D. Section 612. Flood Loads.

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the five-year period begins on the date of the first improvement or repair of that building or structure subsequent to August 17, 1981. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Section 12.3 - 2010 Florida Building Code, Existing Building.

All sections of 2010 Florida Building Code, Existing Building are in effect except as amended as shown below:

A. Section 202. General Definitions

SUBSTANTIAL IMPROVEMENT. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a five-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. For each building or structure, the five-year period begins on the date of the first improvement or repair of that building or structure subsequent to August 17, 1981. If the structure has sustained substantial damage, any repairs are considered substantial

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improvement regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Section 12.4. International Property Maintenance Code, 2012 Edition.

The International Property Maintenance Code, 2012 Edition, a copy of which is on file in the City Clerk's office, as published by the International Code Council, Inc., is adopted by reference as if totally copied herein, with revisions to sections as follows:

- A. Section 101.1. Insert: City of Cape Coral, Florida.
- B. Section 103.1. Delete the words "department of property maintenance inspection is hereby created", and insert in its place the words "City of Cape Coral Code Enforcement Department has been heretofore created". Further, wherever the words "department of property maintenance inspection" or "code official" may appear, substitute the words "City of Cape Coral Code Enforcement Department" and the words "Code Enforcement Manager, or the Manager's designee", respectively.
- C. Section 103.5. Insert: Fees to be amended, if applicable, at a later date.
- D. Section 106.3. Insert at end of such section: The City of Cape Coral Code Enforcement Department may, in addition or alternatively, to pursuing any such criminal or civil penalties of seeking injunctive relief, bring violations for prosecution before the Code Enforcement Special Magistrate, in accordance with §§ 2-81 through 2-96 of the City of Cape Coral Code of Ordinances.
- E. Section 111. Delete.
- F. Section 302.4. Insert: twelve (12) inches in height.
- G. Section 304.14. Insert: January to December.
- H. Section 602.3. Insert: September to May.
- I. Section 602.4. Insert: September to May.
- J. All references to the building official in the International Property Maintenance Code, 2012 Edition, shall be construed as meaning the Department of Community Development Director or the Director's designee. All references in the International Property Maintenance Code, 2012

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131 Edition to building, plumbing, mechanical, fuel gas, electric, fire safety or other codes or standards
132 shall be construed to mean the 2010 Florida Building Code, National Electrical Code, 2008 Edition,
133 and the Florida Fire Prevention Code, as applicable.

134

2018 Draft

Item Number:	7.B.
Meeting Date:	1/24/2018
Item Type:	DATE AND TIME OF NEXT MEETING

**AGENDA REQUEST
FORM**
CITY OF CAPE CORAL



TITLE:

Workshop on Wednesday, February 7, 2018 at 9:00 a.m. in Council Chambers

REQUESTED ACTION:

STRATEGIC PLAN INFO:

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

Planning & Zoning Recommendations:

SUMMARY EXPLANATION AND BACKGROUND:
WHAT THE ORDINANCE ACCOMPLISHES:

LEGAL REVIEW:

EXHIBITS:

PREPARED BY:

Division- Department-

SOURCE OF ADDITIONAL INFORMATION: