



Land Development Code

REVIEW DRAFT – NOVEMBER 16 2020



MODULE 2B IN BOLD

- CHAPTER 1: General Provisions
- CHAPTER 2: Administration
- CHAPTER 3: Zoning Districts
- CHAPTER 4: Use Specific Standards
- CHAPTER 5: Site Development Standards
- CHAPTER 6: Signage**
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LAND DEVELOPMENT CODE¹

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¹ The transitional LDC was predominantly contained in Chapter 34, along with a handful of other chapter parts and sections noted in footnotes throughout the document. This title may be replaced by an article or division number, if appropriate, based on the Village's choice of language as it adopts other parts of traditional material originally written for the County.

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CHAPTER 6

SIGNAGE

COMMENTARY

Chapter 6: Signage includes the standards relating to signage. It carries forward existing standards from Chapter 30 of the transitional LDC, integrates the sign standards that applied to the Estero Planning Community in Chapter 33 of the transitional LDC, and conforms the provisions to the organization and format of this LDC.

Note: This commentary is provided for reference purposes. It will be deleted in the adopted LDC.

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CHAPTER 6. SIGNAGE⁵⁵⁵

SECTION 6-1. GENERAL⁵⁵⁶

6-101. PURPOSE AND INTENT

A. General Purposes

The purpose of this section is to:

1. Facilitate the implementation of goals, objectives, and policies in the comprehensive plan relating to sign control and protection of areas from incompatible uses.
2. Promote convenience, safety, property values, and aesthetics by establishing a set of standards for the erection, placement, use, and maintenance of signs which will grant equal protection and fairness to all property owners in the Village.
3. Encourage signs which help to visually organize the activities of the Village, lend order and meaning to business identification, and make it easier for the public and business delivery systems to locate and identify their destinations.

B. Protection of Public Safety

The regulation of the placement, installation, and maintenance of signs is justified by the innate scheme and primary purpose to draw mental attention to them, potentially to the detriment of sound driving practices and the safety of the motoring public to which a majority of signs are oriented. Therefore, it is an intent of this chapter to regulate the size and location of signs so that their purpose can be served without unduly interfering with motorists and causing unsafe conditions.

C. Protection of Property Values and Aesthetics

The aesthetic impact of signs is an economic fact which may bear heavily upon the enjoyment and value of property. The fact that signs are intended to command visual contact, grants them a proportionately greater role than other structures in determining the overall aesthetic quality of the community. Therefore, the regulation of signs is further justified on the basis that the Village has an obligation to promote the general welfare, including enhancement of property values, so as to create a more attractive business climate and make the Village a more desirable place in which to visit, trade, work, and live.


D. Equal Protection and Fairness

This chapter is designed to be fair to each property owner in that each receives equal and adequate exposure to the public and no one is allowed to visually dominate a neighbor.

E. Intent

In light of its purpose, it is the intent of this chapter to authorize the use of signs in commercial and light industrial areas which are:

1. Compatible with their surroundings;
2. Appropriate to the type of activity to which they pertain;
3. An expression of the identity of the individual proprietors or of the community as a whole; and
4. Large enough to sufficiently convey a message about the owner or occupants of a particular property; the commodities, products, or services available on such property; or the business activities conducted on such property, yet small enough to prevent excessive, overpowering advertising which would have a detrimental effect on the character and appearance of

⁵⁵⁵ As discussed in the Code Assessment, this chapter carries forward with refinements, format and organizational changes Chapter 30, Signs, of the transitional LDC. The refinements and organizational changes are to improve clarity and conform the chapter to the layout of the revised LDC. It also incorporates the sign-related provisions from Chapter 33. The permitting and inspection process have been moved to Sec. 2. , Sign Permit.

⁵⁵⁶ This carries forward Chapter 30 Article 1 of the transitional LDC. Sec. 30-2, Definitions and rules of construction, are moved to Chapter 10: Definitions and Rules for Construction, Interpretation, and Measurement.

commercial and light industrial areas, or which could unduly distract the motoring public causing unsafe motoring conditions.

F. Limitations

It is also the intent of this chapter to limit signs in noncommercial areas to essential uses, primarily for identification and information, in order to protect the character and appearance of noncommercial areas.

6-102. VIOLATION OF SECTION; PENALTY⁵⁵⁷

- A. For any and every violation of the provisions of this chapter, and for each and every day that such violation continues, such violation shall be punishable as provided in Ordinance 2015-14.
- B. In addition to the criminal penalties and enforcement procedures provided in subsection A above, the violation of any of the regulations, restrictions, and limitations promulgated under the provisions of this section may be restricted by injunction, including a mandatory injunction, and otherwise abated in any manner provided by law, and each suit or action may be instituted and maintained by the Village Council, by any citizen of the Village, or by any person affected by the violation of such regulations, restrictions, or limitations.
- C. Persons charged with violations of this chapter may include:
 - 1. The owner, agent, lessee, tenant, or contractor, or any other person using the land, building, or premises where such violation has been committed or shall exist.
 - 2. Any person who knowingly commits, takes part in, or assists in such violation.
 - 3. Any person who maintains any sign or sign structure in violation of this chapter.

6-103. APPLICABILITY⁵⁵⁸

A. General

Except as exempted in subsection C below, the standards of this section apply to every sign in the Village.

B. Sign Permit Required Generally⁵⁵⁹

- 1. Except as provided in subsection 2 below and elsewhere in this section, approval of a sign permit in accordance with Sec. 2. <>, Sign Permit,⁵⁶⁰ is required before any person erects, constructs, enlarges, moves, or converts any sign in the Village.
- 2. The following actions shall not be construed to be activities requiring a sign permit, though they shall be in conformance with all other building, sign, structural, and electrical codes and regulations of the Village:

A. Maintenance

Painting, repainting, cleaning, or other normal maintenance and repair of a sign not involving change of copy or structural or electrical changes. However, replacement of the plastic face of a sign is not exempt from this chapter.

B. Window displays

Changes in the content of show window displays, provided all such displays are within the building.

C. Exemptions⁵⁶¹

In addition, the following are exempt from the provisions of this chapter:

⁵⁵⁷ This carries forward Sec. 30-3 of the transitional LDC.

⁵⁵⁸ This carries forward Sec. 30-4 of the transitional LDC.

⁵⁵⁹ This carries forward Sec. 30-4(a) and Sec. 30-4(b)(2) of the transitional LDC.

⁵⁶⁰ Coordination ongoing with Chapter 2

⁵⁶¹ This carries forward Sec. 30-4(b)(1) and Sec. 30-4(b)(3) of the transitional LDC. The exemption regarding Tourist Oriented Directional Signs does not apply and has been removed.

1. Temporary signs within a right-of-way for purposes of business identification or access location, when necessitated by road construction and when authorized by the Director.⁵⁶² The temporary sign shall not exceed eight square feet in area; and
2. Community identification signs located within the right-of-way when approved by the Director.

6-104. PROHIBITED SIGNS⁵⁶³

A. General

Commercial advertising signs are prohibited unless expressly authorized by this chapter.

B. Specific Prohibitions

Specific types of signs that are prohibited within the Village include, without limitation, the following:

1. Any sign that is not designed, located, constructed, or maintained in accordance with the provisions of this chapter, is not compatible with the objectives of this LDC, or does not meet the requirements of applicable Village, state, and federal codes.
2. Lights and signs that resemble any traffic control device, official traffic control signs, or emergency vehicle markings.
3. Signs or other advertising matter as regulated by this chapter erected at the intersection of any road or in any road right-of-way which:
 - A. May obstruct free and clear vision;
 - B. May interfere with or obstruct the view of any authorized traffic sign, signal, or device by reason of the position, shape, or color of the sign; or
 - C. Make use of the word "stop," "look," "drive-in," or "danger" or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse vehicular traffic.
4. Abandoned signs.
5. Animated signs.
6. Emitting signs.
7. Balloons, including all inflatable air signs or other temporary signs that are inflated with air, helium, or other gaseous elements.
8. Banners, pennants, or other flying paraphernalia, except an official federal, state, county, or Village flag not to exceed 15 square feet in area for each institution or business.
9. Bench signs, except as permitted in accordance with Sec. 6-302, Off-Site Signs.
10. Billboards.
11. Bus shelter signs, except as permitted in accordance with Sec. 6-302, Off-Site Signs.
12. Changing sign (automatic), except as approved within a DRI by planned development zoning resolution adopted by Lee County prior to June 24, 2003.
13. Electronic Changing Message Centers, except as approved within a DRI by planned development zoning resolution adopted by Lee County prior to June 24, 2003.⁵⁶⁴
14. Figure-structured signs.
15. Motion picture signs.
16. Off-site directional signs, except as approved within a DRI by planned development zoning resolution adopted by Lee County prior to June 24, 2003.
17. Parking of advertising vehicles.
18. Portable signs, except as permitted in Sec. 6-105, Permitted Signs, or Sec. 6-301.A.1.B, Temporary Announcement Signs.

⁵⁶² The transitional LDC identifies the "department of transportation." We have replaced it with Director.

⁵⁶³ This carries forward and consolidates Secs. 30-5 and 33-383 of the transitional LDC.

⁵⁶⁴ This is carried forward from Sec. 33-383(5) of the transitional LDC which applies to the Estero Planning Community. Because these signs are not allowed, they are not carried forward from Sec. 30-153(5) of the transitional LDC which established general standards for the erection of such signs elsewhere in Lee County.

19. Pole signs.
20. Projecting signs.
21. Pylon signs, except as approved within a DRI by planned development zoning resolution adopted by Lee County prior to June 24, 2003.
22. Roof signs.
23. Signs with any lighting or control mechanism which causes radio or television or other communication interference.
24. Signs erected, constructed, or maintained so as to obstruct or be attached to any firefighting equipment or any window, door, or opening used as a means of ingress or egress or for firefighting purposes, or placed so as to interfere with any opening required for proper light and ventilation.
25. Signs, except "posted property" signs, which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
26. Any sign which is placed on any curb, sidewalk, post, pole, electrolier, hydrant, bridge, tree, or other surface located on public property or over or across any road, except as may otherwise expressly be authorized by this section.
27. Snipe signs.
28. Unshielded illuminated devices that produce glare or are a hazard or a nuisance to motorists or occupants of adjacent properties.
29. Window signs which identify or advertise activities, services, goods, or products available within the building, and which collectively cover more than 30 percent of the window glass surface area.

6-105. PERMITTED SIGNS⁵⁶⁵

A. Signs Permitted Without a Permit

The following signs are permitted without requiring a permit, subject to the following requirements:

1. *Awning Signs*

Signs consisting of one line of letters, which are painted, placed, or installed upon the hanging border only of any awning legally permitted, erected, and maintained in accordance with this LDC and all other applicable Village laws. An identification emblem, insignia, initial, or other similar feature not exceeding an area of eight square feet may be painted, placed, or installed elsewhere on any awning providing it complies with the other provisions of this chapter.

2. *Business Affiliation Signs*

Signs displayed by businesses, upon the premises, denoting professional and trade associations with which the business is affiliated, required statutory signs, and other signs pertaining to public safety and law enforcement, provided such graphics do not contain lettering more than two inches high.

3. *Business Information Signs*

Provided that such signs are posted on entrance doors or within a window.

4. *Flags or Insignia of Governmental or Nonprofit Organizations*

Flags or insignia of a governmental, religious, charitable, or fraternal organization, except when displayed in connection with a commercial promotion.

5. *Garage Sale Signs*

Garage sale signs, provided they are erected no more than 24 hours prior to the sale, and removed within 72 hours of the time they were erected.

6. *Governmental and Public Safety Signs*

Governmental signs for control of traffic and other regulatory purposes, street signs, danger signs, railroad crossing signs, signs of public service companies indicating danger, and aids to

⁵⁶⁵ This carries forward Sec. 30-6 of the transitional LDC.

service or safety which are erected by or on the order of a public officer in the performance of the officer's public duty.

7. *Christmas and Hanukkah Decorations*

Signs of a primarily decorative nature, clearly incidental and customary and commonly associated with the Christmas and Hanukkah holidays, displayed no more than 45 calendar days prior to and 15 calendar days after the nationally recognized holiday. They may be of a type not otherwise prohibited by Sec. 6-104, Prohibited Signs, provided:

- A. The decorations contain no advertising (other than the name of the business); and
- B. The decorations are set back a minimum of ten feet from all boundary lines of the lot, and provide clear visibility areas in accordance with the requirements of Sec. 10-303.S, Sight Triangle.

8. *Instructional Signs*

Instructional signs or symbols located on and pertaining to a parcel of private property, provided such signs not exceed four square feet in area per sign.

9. *Interior Signs*

Signs located within the interior of any building or stadium and not visible from the exterior, or within an enclosed lobby or court of any building, and signs for and located within the inner or outer lobby, court, or entrance of any theater. All such signs shall be required to comply with any structural, electrical, or material specifications as set out in this LDC and the Florida Building Code.

10. *Legal Notices*

Legal notices and other official instruments.

11. *Memorial Signs or Tablets*

Memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

12. *Residential Nameplates*

Provided such signs not exceed 2.25 square feet in area.

13. *Political or Campaign Signs*

Provided such signs not exceed four square feet in area. Larger political or campaign signs require a permit in accordance with Sec. 6-301.A.4, Political or Campaign Signs.

14. *Posted Property Signs*

Subject to the following:

- A. Such signs shall not exceed one and one-half square feet in area.
- B. A maximum of four signs are permitted in each lot.
- C. Signs shall not be illuminated and shall not project over any public right-of-way.

15. *Professional Nameplates*

Provided such signs not exceed two square feet in area.

16. *Promotional Signs*

Provided they not exceed four square feet in area, are posted only during such event or no more than 45 days before the event, and are removed no more than ten days after an event. Other promotional signs require a permit (Sec. 6-105.B, Signs Permitted with a Sign Permit, and Sec. 6-301.A.5, Promotional Signs).

17. *Public Information Signs*

Signs used for public information or direction erected either by or at the direction of a public body.

18. *Real Estate, Open House and Model Signs*

Real estate, open house, and model signs provided they comply with Sec. 6-301.A.6, Real Estate Signs.

19. *Signs Incorporated on Machinery or Equipment*

Signs incorporated on machinery or equipment at the manufacturer's or distributor's level, which identify or advertise only the product or service dispensed by the machine or equipment, such as signs customarily affixed to vending machines, newspaper racks, telephone booths, and gasoline pumps.

20. *Symbols or Insignia of Religious Orders or Historical Agencies*

Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies, with a maximum size of four square feet in area.

21. *Warning Signs*

Signs warning the public of the existence of danger and of a size as may be necessary, but containing no advertising material and to be removed upon subsidence of danger.

22. *Waterway Signs*

Directional signs along inland waterways.

23. *Window Signs*

Window signs which identify or advertise activities, services, goods or products available within the building, and which collectively cover 30 percent or less of the window glass surface area. Lettering on windows and signs required by federal or state law or by regulations promulgated by federal or state agencies, business information signs, and business affiliation signs are excluded from the computation of the sign area limitations and restrictions specified in Sec. 6-301.C.2, Total Permitted Sign Area.

B. Signs Permitted with a Sign Permit

Subject to the provisions of subsection C below, the following types of signs are allowed upon application for and issuance of a sign permit (Sec 2-505.F.3, Sign Permit),⁵⁶⁶ provided the proposed sign is nonilluminated or the illumination is from a previously approved source, and all other provisions of this chapter are met:

1. *Announcement Signs*

Subject to the requirements of Sec. 6-301.A.1, Announcement Signs.

2. *Bench Signs*

Subject to the requirements of Sec. 6-302, Off-Site Signs.

3. *Bus Shelter Signs*

Subject to the requirements of Sec. 6-302, Off-Site Signs.

4. *Construction Signs*

Subject to the requirements of Sec. 6-301.A.2, Construction Signs.

5. *Development Signs*

Subject to the requirements of Sec. 6-301.A.3, Development Signs.

6. *Directory Signs (on-site only)*⁵⁶⁷

Subject to the requirements of Sec. 6-301.C.3.A.2, Directory Signs.

7. *Identification Signs*

Subject to the requirements of Sec. 6-301.B, Permanent Signs in Residential Development, or Sec. 6-301.C, Permanent Signs in Commercial and Mixed-Use Areas,

⁵⁶⁶ The transitional LDC included a "sign location permit" and a "sign construction permit." This has been consolidated to a single sign permit and building department review has been added for the signs that previously required a sign construction permit.

⁵⁶⁷ This carries forward Sec. 30-6(2)(f) of the transitional LDC.

8. Promotional Signs

Subject to the requirements of Sec. 6-301.A.5, Promotional Signs.

9. Wall-Mounted Signs⁵⁶⁸

Subject to the requirements of Sec. 6-301.C.3, Nonresidential Subdivisions and Multiple-Occupancy Complexes.

C. Signs Permitted with a Sign Permit and Building Review

As part of the sign permit application procedure (Sec 2-505.F.3, Sign Permit), signs that meet any of the following criteria shall be required to undergo review by the Building Department before a permit will be issued and the sign may be erected:

1. Any sign exceeding ten feet in height;
2. Any sign exceeding 32 square feet in area;
3. Any illuminated or electrically operated sign, including portable signs, if the source of the illumination or electricity has not been previously approved; or
4. Any sign, other than a painted sign, attached to a wall or marquee.

6-106. PARKING OF ADVERTISING VEHICLES⁵⁶⁹

- A. No person shall park any vehicle, trailer, or boat on a public right-of-way, public beach, or public property, or on private property so as to be clearly visible from a public right-of-way, where the vehicle, trailer, or boat has attached or located on it an advertising device for the primary purpose of providing advertisement of products or directing people to a business or activity located on the same or nearby property or any other premises. This subsection is not intended to prohibit any form of public vehicular signage such as a sign attached to a bus; neither shall this section prohibit a sign lettered on or attached to a motor vehicle in such a manner as to primarily identify the vehicle with the business it serves and which is less than six square feet in area. This section shall not be interpreted as prohibiting company names which are customarily and normally on interstate or local trucks.
- B. The parking of unusual vehicles or the use of any other unusual device or contrivance visible from a public or private road or right-of-way for advertising or commercial purposes is prohibited.

6-107. REMOVAL OF DANGEROUS SIGNS⁵⁷⁰

A. General

All signs and sign structures which are or have been erected or maintained unlawfully shall be considered illegal and subject to the removal procedures of this subsection.

B. Special Removal Provisions for Certain Signs

The provisions of this subsection B apply to banners, promotional signs, sidewalk or sandwich signs, snipe signs, and special event signs:

1. The Village finds that, in view of the inexpensive nature of these signs and the administrative burden which would be imposed by elaborate procedural prerequisites prior to removal, any procedure other than summary removal of these signs when unlawfully erected and maintained would defeat the purpose of regulating such signs. Therefore, the Building Official is authorized to remove such signs when unlawfully erected and maintained, subject to the provisions contained in subsection C below.
2. After summary removal of a sign in accordance with this section, the Building Official will notify, either in person or by first class postage, prepaid, the occupant of the property from which the sign was removed, and, if the sign identified a party other than the occupant of the property, the

⁵⁶⁸ This carries forward Sec. 30-6(2)(i) of the transitional LDC. Sec. 6-301.C.3.B.1, Wall Signs (part of "Individual Occupants Within Multiple-Occupancy Complexes") also provides standards regarding wall signs. The cross-reference has been updated to refer to the nonresidential subdivision and multiple-occupancy complexes provisions regarding permanent signs, which is where all permitted wall sign provisions are located.

⁵⁶⁹ This carries forward Sec. 30-7 of the transitional LDC.

⁵⁷⁰ This carries forward Sec. 30-8 of the transitional LDC.

party so identified. The notice will advise that the sign has been removed, and will state that the sign may be retrieved within 30 days of the date of the notice and that if the sign is not retrieved within 30 days it will be disposed of by the Village. If the sign is removed from public property, no notice is required. The Village will dispose of all unclaimed signs after the expiration of the 30-day period.

C. Other Unlawful Signs

Signs which are or have been erected or maintained unlawfully but are not subject to subsection B above shall be subject to the following removal procedures:

1. The Building Official shall prepare a notice which describes the sign, specifies the violation involved, and states that, if the sign is not removed or the violation is not corrected within 15 days, the sign shall be removed in accordance with the provisions of this subsection.
2. All notices mailed by the Building Official shall be sent by certified mail, return receipt requested. Any time periods provided in this subsection shall be deemed to commence on the date of the receipt of the certified mail.
3. The notice shall be mailed to the owner of the property on which the sign is located as shown on the last equalized assessment roll. If the owner of the sign and/or the occupant of the property are known, or with reasonable care should be known, the notice shall also be mailed to or delivered to the owner of the sign and/or the occupant of the property.
4. If the Building Official is unable to determine the identity of the sign owner or user or the owner of the property on which the sign is located, the notice may be affixed in a place conspicuous to the sign or to the business premises with which the sign is associated. The Building Official shall require a new sign permit to be issued for each existing sign classified as a legal nonconforming sign. A photograph of each sign so classified shall be attached to the Village's copy of the permit application.⁵⁷¹
5. Any person having an interest in the sign or the property may appeal the determination of the Director ordering removal or compliance by filing a written notice of appeal with the Village within 15 days after the date of receiving the notice.
6. Upon completion of the notification procedures and after expiration of the 15-day appeal period, if no appeal has been filed, the Building Official shall have the authority to remove or contract with a contractor to remove the unlawful sign. All costs associated with the removal of the unlawful sign shall be assessed against the property owner. Each such assessment shall be a lien against the property until paid, in accordance with subsection E below.

D. Emergency Work

If the Building Official determines that a sign would cause an imminent danger to the public safety, and contact cannot be made with a sign owner or building owner, written notice does not need to be served. In this emergency situation, the Building Official may correct the danger, with all costs being assessed against the property owner.

E. Assessment of Costs

1. Shortly after the offending condition is corrected or removed by the Building Official and the expense of doing so is determined, the Building Official shall render a statement to the property owner or permittee or person having possession or right to use, by regular United States mail, addressed to the last known address of any such persons, informing the person of the sums due the Village.
2. If such sums are not paid within 45 days, the Village Council shall, by resolution, levy a special assessment lien in the amount of all sums due the Village, plus interest on the amount at a rate of 12 percent per annum, plus all expenses which may be incurred incident to the enforcement of such lien, including any court costs or attorney's fees, until final payment of all sums have been made.
3. Liens shall be recorded in the public records of Lee County and shall remain in full force and effect until finally paid. The Village shall furnish releases of the subject lien upon proper

⁵⁷¹ This carries forward Sec. 30-8(2)(d) of the transitional LDC.

satisfaction having been made. The lien may be enforced in the manner provided by state law for the enforcement of liens or the foreclosure of mortgages.

SECTION 6-2. MEASUREMENT, CONSTRUCTION, AND MAINTENANCE STANDARDS⁵⁷²

6-201. MEASUREMENT OF SIGN AREA⁵⁷³

- A. The sign area shall be measured from the outside edges of the sign or the sign frame, whichever is greater, excluding the area of the supporting structures provided that the supporting structures are not used for advertising purposes and are of an area equal to or less than the permitted sign area. In the case of wall signs without a border or frame, the surface area shall include such reasonable and proportionate space as would be required if a border or frame were used.
- B. When a single sign structure is used to support two or more signs, or unconnected elements of a single sign, the surface area shall comprise the square footage within the perimeter of a regular geometric form enclosing the outer edges of all the separate signs or sign elements.
- C. When signs are installed back-to-back, one face only is considered as the sign area. If unequal in size, the larger face will be counted.

6-202. MEASUREMENT OF SIGN HEIGHT⁵⁷⁴

- A. The height of a sign shall be considered to be the vertical distance measured from the adjacent road grade or upper surface of the nearest road curb, whichever is higher.
- B. For signs near elevated roads such as interchange overpasses, height shall be measured from the road grade of the adjacent road that provides access to the property hosting the sign.

6-203. LOCATION⁵⁷⁵

A. Sight Triangle⁵⁷⁶

No sign shall impair visibility at a road intersection or driveway entrance. Within the area formed by the right-of-way lines of intersecting roads or roads and driveways, and a straight line connecting points on such right-of-way lines at a distance of 25 feet from their point of intersection, such connecting lines extending beyond the points to the curved lines, there shall be a cleared space with no obstructions between the height of three feet and the height of ten feet above the average grade of each road, measured at the road's centerline, known as the Sight Triangle.

B. Clearance from High-Voltage Power Lines

Signs shall have ten feet of clearance from all overhead electrical conductors and three feet of clearance from all secondary voltage service drops.

6-204. CONSTRUCTION STANDARDS AND LANDSCAPING⁵⁷⁷

A. General

All signs shall comply with the appropriate provisions of the Florida Building Code relating to design, structural members, and connections. Illuminated signs shall also comply with provisions of the National Electrical Code, and all electrical work shall be Underwriters' Laboratories approved or be certified by an electrician licensed by Lee County. Signs shall also comply with the additional standards set forth in this chapter.

⁵⁷² This carries forward Chapter 30 Article III of the transitional LDC. Article II, Administration and Enforcement, has been omitted, except for Sec. 30-55, Nonconforming Signs.

⁵⁷³ This carries forward Sec. 30-91 of the transitional LDC.

⁵⁷⁴ This carries forward Sec. 30-92 of the transitional LDC.

⁵⁷⁵ This carries forward Sec. 30-93 of the transitional LDC.

⁵⁷⁶ This renames "visibility triangle", carried forward from Sec. 30-93(a) of the transitional LDC.

⁵⁷⁷ This carries forward Sec. 30-94 of the transitional LDC.

B. Erection by Licensed Contractor

No sign may be erected except by a licensed contractor, other than a painted wall sign, if the sign:

1. Exceeds 32 square feet in area;
2. Exceeds ten feet in height; or
3. Requires or uses electricity from other than a previously approved source.

C. Structural Design

1. Structural drawings reviewed and certified by an engineer registered by the state shall be required for any sign exceeding 40 square feet in area or 20 feet in height. Wind load calculations shall be submitted with the engineer's submittal.
2. For signs that are 40 or fewer square feet in area, the Building Official may require wind load calculations be submitted prior to issuing a permit.
3. A wall shall be designed for and have sufficient strength to support any sign which is attached to it.

D. Materials for Ground Signs

1. All ground sign structures or poles shall be self-supporting structures erected on and permanently attached to concrete foundations.
2. All wood used for any portions of new permanent signs or for replacement of existing permanent signs shall be rot and termite resistant through open-cell preservation methods as specified by the American Wood Preservation Association, or by any other open-cell preservation treatment approved by the Building Official.

E. Electric Signs

1. All signs with electricity, including portable signs, shall be certified by the sign contractor that the sign meets the standards established by the National Electrical Code. All electric signs shall be erected and installed by a licensed sign contractor. The electrical connection to a power source shall be performed by a licensed electrical contractor.
2. Artificial light used to illuminate any sign from outside the boundaries of the sign shall be screened in a manner that prevents the light source from being visible from any abutting right-of-way or adjacent property and shall comply with Section 5-6, Exterior Lighting Standards.⁵⁷⁸

F. Supports and Braces

Metal supports or braces shall be adequate for wind loadings. All metal wire cable supports and braces and all bolts used to attach signs to brackets or brackets and signs to the supporting building or structure shall be made of galvanized steel or of an equivalent corrosive resistant material. All such sign supports shall be an integral part of the sign.

G. Anchoring

No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that would cause wear on supporting members or connections.

H. Maximum Angle for Double-Faced Signs

Double-faced signs with opposing faces having an interior angle greater than 30 degrees are prohibited.

I. Landscaping

1. Approved landscaping shall be functional and decorative. It shall be designed for minimal maintenance and capable of withstanding vandalism. The support structure of the sign may, if properly designed, be included as part of the landscaping.
2. The least dimension of the landscaped area shall be the greatest dimension of the sign, and the sign shall not extend beyond the landscaped area. The area enclosed by curbing shall be landscaped with shrubs and ground cover.

⁵⁷⁸ This paragraph has been modified to include a reference to the general exterior lighting standards

J. Polyester Film Window Graphics

The use of polyester film window graphics is prohibited.

6-205. SIGN IDENTIFICATION AND MARKING⁵⁷⁹

A. Permit Required to Be Affixed

No sign for which a permit is required by this chapter shall be erected, displayed, rebuilt, repaired, painted, or otherwise maintained until a Village sign permit number is painted on or otherwise affixed to the sign or sign structure in such a manner as to be plainly visible from the road.

B. Identification Plate Required

All off-site signs erected or remodeled shall bear, in a permanent position, a clearly legible identification plate stating the name and address of the owner of the sign and the person responsible for its construction and erection, and the date of erection. Electrical signs shall be marked with input amperages at the full load input.

6-206. MAINTENANCE⁵⁸⁰

- A.** All signs for which a permit is required by this chapter, including their supports, braces, guys, and anchors, shall be maintained so as to present a neat, clean appearance. Painted areas and sign surfaces shall be kept in good condition, and illumination, if provided, shall be maintained in safe and good working order.
 - B.** Weeds and grass shall be kept cut in front of, behind, underneath, and around the base of ground signs for a distance of ten feet, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near such signs.
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SECTION 6-3. RESTRICTIONS BASED ON LOCATION⁵⁸¹

6-301. ON-SITE SIGNS⁵⁸²

A. Temporary Signs⁵⁸³

The following types of temporary signs are permitted in all zoning districts, provided they are not prohibited by Sec. 6-104, Prohibited Signs. They shall comply with the following standards:

⁵⁷⁹ This carries forward Sec. 30-95 of the transitional LDC.

⁵⁸⁰ This carries forward Sec. 30-96 of the transitional LDC.

⁵⁸¹ This carries forward Chapter 30 Article IV of the transitional LDC.

⁵⁸² This carries forward Chapter 30 Article IV Division 2 of the transitional LDC (Division 1 is reserved for future use).

⁵⁸³ This carries forward Sec. 30-151 of the transitional LDC except for subsection (7).

TABLE 6-301.A-1: TEMPORARY SIGNS	
Announcement Signs	
<p>Temporary Construction or Development Sign Allowed for a project under construction or an intended use of premises within 60 days of sign erection, or upon approval of a development order.</p> <p>One sign per road frontage per project</p>	<p>Max height: 10 ft (measured above the crown of any abutting road) Max. sign area: 32 sf</p> <p>May include only the project name, nature of the development (e.g. professional office, villas, townhouses, condominium etc.), the name of the owner or agent, and one telephone number.</p> <p>Shall be removed upon issuance of a building permit for the project.</p> <p>Signs announcing the development of a recorded subdivision may be posted for a 12-month period from the date of recording the subdivision plat</p>
<p>Temporary Announcement Sign One sign for a new business, or a business in a new location with no permanent sign, if does not exceed either the number or size of permanent signs otherwise permitted for the occupant or location</p>	<p>Max. height: 10 ft (including support structure) Max. sign area: 32 sf</p> <p>Installed for no more than 14 days, twice per year</p>
<p>Construction Signs One per construction project on each street frontage. Sign shall be erected no more than 10 days prior to the start of construction and shall be removed prior to issuance of the first certificate of occupancy</p>	<p>Setback: 15 feet from any property line or road right-of-way or easement line, whichever is greater distance from the road</p> <p>Max. height: 10 ft Max. sign area: 32 sf</p> <p>Sign may denote the architect, engineer, contractor, subcontractor, owner, future tenant, financing agency, or other persons performing services or labor or supplying materials to the premises.</p>

TABLE 6-301.A-2: TEMPORARY SIGNS	
Development Signs	
<p>Residential Development Sign Permitted in any residential development in which more than 20 percent of the lots, homes, or living units remain unsold</p>	<p>One sign for each road entrance into development Max sign area: 32 sf Shall be located within the property being developed Permits issued for one year and may be renewed annually</p> <p>Not illuminated</p>
<p>Nonresidential Development Sign Permitted in any commercial zoning district, or to promote the sale, rental, or lease of units within the development</p>	<p>Max. height: 10 ft Max. sign area: 32 sf</p> <p>Not illuminated</p>

TABLE 6-301.A-3: TEMPORARY SIGNS		
Political Campaign Signs		
	<p>On property owned by others Temporary political or campaign signs on behalf of candidates for public office or measures on election ballots</p>	<p>Person posting sign shall place on file with Building Office a location list, updated by submission of amended lists, indicating the placement of all temporary or campaign signs, and post bond or other security deposit acceptable to the Village to ensure the proper maintenance and removal of the signs in accordance with Sec. 6-3.05, Sign Permit.</p> <p>Shall be erected not earlier than 60 days prior to the election, removed within ten days following the election.</p> <p>Max. height: 6 feet Max. sign area: 32 sf</p>
	<p>On owner's own property</p>	<p>Permitted</p> <p>Max sign area (for each sign): 4 sf</p>

TABLE 6-301.A-4: TEMPORARY SIGNS		
Promotional Signs		
	<p>Except as provided in Sec. 6-105.A.16, Promotional Signs, only allowed on property owned by others for special events or promotions until person obtains a permit from the Building Official and posts bond or other security deposit acceptable to the Village to ensure the proper maintenance and removal of the signs</p>	<p>May be erected within 30 days prior to a proposed event and shall be removed within ten days after the event</p> <p>Max. height: 10 ft Max sign area: 32 sf</p>

TABLE 6-301.A-5: TEMPORARY SIGNS	
Real Estate Signs	
<p>Temporary “For Sale,” “For Rent,” or “For Lease” Signs Permitted on property where the owner is actively attempting to sell, rent, or lease the property, either personally or through an agent</p>	<p>Each lot smaller than 10 acres is permitted one on-site wall or ground-mounted sign on each road frontage as follows:</p> <p>Single-Family or Two Family dwellings or lot Max. height: 4 feet Max. sign area: 4 sf</p> <p>Multifamily, nonresidential, or vacant property, and properties 10 acres or larger Max. height: 10 feet Max. sign area: 32 sf</p> <p>Each lot 10 acres or larger may erect one sign for every 330 linear feet of frontage on any one road</p> <p>Minimum setback: 15 feet from right-of-way and side property lines, except in a commercial area the sign may extend to the sidewalk line</p> <p>No signs may be fastened to trees. “Sold” signs shall be allowed in three-inch by 16-inch strips, removable within 30 days after consummation of sale</p>
<p>Temporary “Open House” or “Open for Inspection” Signs Permitted on the property to be sold or leased</p>	<p>One per road frontage per single-family dwelling or multifamily building.</p> <p>Only displayed when premises are actually available for inspection by a prospective buyer or tenant</p> <p>Max. sign area: 3 sf</p>
<p>Model Dwelling Unit Sign Sign copy may only include the word model, the name of the builder and builder’s agent, the number of bedrooms and baths, and one telephone number</p>	<p>One sign per residential building</p> <p>Max. sign area: 24 sf</p> <p>One “Parking in Rear” or “Model Parking” sign also permitted</p> <p>Allowed in-lieu of Temporary “For Sale,” “For Rent,” or “For Lease” signs.</p>

TABLE 6-301.A-6: TEMPORARY SIGNS	
Special Occasion Signs	
<p>Temporary on-site signs may be issued for special occasions such as holidays (other than Christmas and Hanukkah, which are addressed in Sec. 6-105.A.7), carnivals, parking lot sales, annual and semiannual promotions, or other similar events, and shall comply with the following standards:</p> <ol style="list-style-type: none"> 1. A temporary use permit (Sec. 2-505.C, Temporary Use Permit) shall be required; 2. The temporary use permit shall be issued for a period of time not to exceed 15 consecutive days; 3. No business shall be permitted more than two temporary use permits for special occasion signs in any calendar year; and 4. The business shall not have violated the time limitation in paragraph 2 above within the calendar year preceding the request for the temporary use permit. <p>Signs shall be located on-site only and in such a manner that does not create a traffic or pedestrian hazard. Signs illuminated by electricity shall comply with all electrical and safety codes. Signs shall be constructed and secured in accordance with all applicable standards.</p>	

B. Permanent Signs in Residential Development⁵⁸⁴

Permanent signs are permitted in residential development in accordance with the standards in the following tables.

TABLE 6-301.B: PERMANENT SIGNS IN RESIDENTIAL DEVELOPMENT			
GENERAL REQUIREMENTS			
Applies to	Each residential subdivision, mobile home and recreational vehicle development, condominium, and multi-family building containing five or more dwelling units, including development in planned development districts that includes residential uses		
Maintenance	A homeowners' association or similar entity shall be responsible for maintenance of each sign		
Location	Set back 15 ft from edge of public right-of-way		
	Set back 15 feet from an entrance road, except that if the sign is in the median strip of the entrance boulevard, the minimum required setback is five feet		
Illumination	May be illuminated with a steady light shielded so as not to interfere with vehicular traffic, subject to Section 5-6, Exterior Lighting Standards.		
Design	May incorporate or be incorporated into accessory entrance structural features such as a project wall or landscaping		
RESIDENTIAL DEVELOPMENT SIGNS			
Specific Signs	Number	Maximum Height & Sign Area	Other Requirements
Entrance Identification Signs	Boulevard entrance: 1 in median, or 2 single-faced and equal in size on each side of entranceway	Max. height: 10 ft Max. sign area: 105 sf	Shall only include name of residential development and, where applicable, the name of residential facilities internal to the development
	Non-Boulevard Entrance: 1 double-faced sign perpendicular to road or 2 single-faced and equal in size and located on each side of the entranceway		

⁵⁸⁴ This carries forward Sec. 30-152 of the transitional LDC.

Additional Identification Signs	1 per 2,000 linear ft of frontage	Max. height: 10 ft	Shall only include name of the residential community
Internal Signs	Boulevard entrance: 1 in median OR 2 single-faced Non-boulevard entrance: 1 double-faced sign perpendicular to road or 2 single-faced	Max. height: 8 feet Max. sign area: 32 sf	
On-Site Directional Signs Permitted in a residential development with several distinctly separate subdivisions, clusters, or other subunits of development.	Multiple	Max. height: 6 ft Max sign area: 10 sf Set back 15 ft from edge of public right-of-way or easement	Permitted along an interior collector road at intersections with other interior road. Shall be a permanent wall or monument sign

C. Permanent Signs in Commercial and Mixed-Use Areas⁵⁸⁵

Permanent signs are permitted in commercial and mixed-use development in accordance with the standards in the following tables.

TABLE 6-301.C-1: PERMANENT SIGNS IN COMMERCIAL AND MIXED-USE DEVELOPMENT		
General Requirements		
<ul style="list-style-type: none"> • Applies to all nonresidential and mixed-use development • All signs in a development subject to a unified sign plan shall be designed and constructed in accordance with the approved unified sign plan. • All signs shall match the architectural style of the building or development to which they relate. • Any sign that identifies individual businesses shall be configured to be easily read from the pedestrian level. 		
Sign Copy Area Calculations		
Total permitted sign copy area, property with single frontage	Amount of Frontage on Public Right of Way	Maximum Sign Area
	50 ft or less	20 sf per 10 linear ft, up to 100 sf
	Between 50 and 100 ft	20 sf per 10 linear ft, up to 150 sf
	100 up to 330 ft	20 sf per 10 linear ft, up to 300 sf
	More than 330 ft	20 sf per 10 linear ft, up to 400 sf
Total permitted sign copy area, property with multiple frontages	Corner Lots	Maximum sign area per frontage, transfers between frontages not permitted
	Parallel Streets	If both streets are collector, maximum sign area per frontage, transfers between frontages not permitted. If one street is a local road facing residential or institutional uses, sign area maximum on local road is 25 sf. If one street is a local road facing a commercial or industrial area which provides vehicular access to the subject property, than total signage allowed for a single frontage is permitted and may not be transferred between frontages

⁵⁸⁵ This carries forward Sec. 30-153 of the transitional LDC.

		<p>If both streets are local roads, single frontage allowance applies to primary vehicle entrance, second frontage has 25 sf allowance</p> <p>If a business fronts a collector or better road but is separated by a frontage road, the allowable sign area is calculated as though the frontage road were not there</p>
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TABLE 6-301.C-2: PERMANENT SIGNS IN COMMERCIAL AND MIXED-USE DEVELOPMENT

Non-Residential Subdivisions, and Multiple-Occupancy Complexes with More than Five Establishments				
	Sign Type	Number	Setback, Illumination, and Other Requirements	Maximum Height and Sign area
	Project identification signs	<p>1 if less than 330 linear feet of frontage</p> <p>2 if 330 linear feet or more of frontage</p> <p>On corner lot, may place one sign with total sign area based upon total frontage of both roads provided maximum sign area does not exceed 300 sf per face</p>	<p>Setback: 15 ft from road ROW (unless building is within 15 of road ROW, in which case sign may not project over ROW or easement or be within 10 feet of overhead electric supply). Not permitted between a collector or arterial road and a frontage road. Setback 10 feet from other property lines</p> <p>Illumination: Illuminated with individual internally illuminated letters and logo and/or lighting behind letters and logo, or edge-lit with concealed neon or remotely-lit fiber optic, with electric connections and wiring concealed</p> <p>May not be illuminated with a visible source of external lighting, exposed neon, exposed raceways, or internally illuminated box signs (as defined by a sign comprised of translucent surfaces illuminated from within) unless the face and side of sign are opaque except for letters and/or logos being translucent</p> <p>Shall display road address of the property and shall measure between four and six inches in height; copy area of address does not count towards total permitted sign copy area</p> <p>Signs identifying individual businesses shall be easily read from pedestrian level, and signs shall match architectural style of building or development</p>	<p>Max. height: 17 ft (7 ft if closer than 15 feet to road ROW)</p> <p>Max. sign area: 1 sf per linear foot of frontage, maximum 200 sf on one sign, combined maximum 300 sf if two signs are permitted</p> <p>Copy area shall not exceed 75 percent of total sign structure area; minimum 25 percent of sign structure area shall be devoted to architectural features</p>
	Additional entrance signs	<p>One at each additional entrance to nonresidential subdivision on the same frontage as project identification sign</p>	<p>Not illuminated</p> <p>Shall only include name of development</p>	<p>Max. sign copy area: 16 sf</p>

		Directory signs	<p>Permitted on same structure as project identification sign</p> <p>Shall have same background, lettering, and color scheme as project identification sign</p> <p>Cinema or theater may advertise on identification sign provided copy area does not exceed 25 percent of total permissible sign area</p> <p>It shall be the responsibility of the developer to assure adequate space on the directory and identification sign for each tenant. Failure to provide space shall not be grounds for any occupant to request or obtain a variance from the provisions</p>	
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TABLE 6-301.C-3: PERMANENT SIGNS IN COMMERCIAL AND MIXED-USE DEVELOPMENT				
Individual Occupants within Multiple-Occupancy Complexes				
Signs may not contain any advertising message concerning any business, goods, products, services, or facilities which are not manufactured, produced, sold, provided, or located on the premises upon which the sign is erected or maintained.				
	Sign Type	Number	Other Requirements	
	Wall signs	Multiple	<p>Permitted on any wall facing a collector or arterial road or parking lot, with a maximum 10 percent of wall area, maximum 200 sf per wall per tenant</p> <p>When abutting residentially zoned property or delivery vehicle accessway, wall signs permitted with total maximum area of 24 sf</p> <p>May be illuminated in accordance with regulations for Project Identification Signs</p> <p>Signs shall not contain advertising messages or sales item names</p>	
	Marquee signs	Only on marquees or canopies otherwise lawfully permitted or in existence	Shall not extend horizontally beyond the edges of the canopy or marquee to which they are attached or suspended	
	Under-Canopy Signs	Permitted under canopy	<p>Max, sign copy area: 4 sf</p> <p>Max. letter height: 6 in</p> <p>Min. clearance height above sidewalk: 6 ft</p> <p>Mounted as nearly as possible at a right angle to the building face, and rigidly attached</p>	
	Interior directional signs	Multiple	<p>Max. height: 10 ft</p> <p>Max. sign copy area: 32 sf (may include individual tenant panels with up to 4 sf in area)</p> <p>Shall be located in such a manner that will not adversely obstruct safe visibility between moving vehicles or vehicles and pedestrians</p> <p>Shall not be visible outside the complex premises</p>	

TABLE 6-301.C-4: PERMANENT SIGNS IN COMMERCIAL AND MIXED-USE DEVELOPMENT				
Individual Office, Institution or Business Establishments, and Multiple-Occupancy Complexes with Five or Fewer Establishments				
		Height and Setback Requirements	Amount of Frontage	Maximum Sign Area
	Monument Identification Sign Dimensional Requirements	Max. height: 17 ft Min. street setback: 15 ft Min. side property line setback: 10 ft	50 ft or less	32
			Between 50 and 100 ft	64
			100 up to 330 ft	72
			More than 330 ft	96
	Sign Type	Number	Other Requirements	
	Monument Identification Sign	1, except on corner lots, occupant may combine two permitted monument identification signs into one, provided total sign area does not exceed 1 1/2 times the maximum sign permitted on any one road frontage	Ground sign areas not identifying the complex shall be divided equally among the occupants Signs may be illuminated in accordance with the standards for Project Identification Signs in Table 6-301.C-2 above. Not permitted between a collector or arterial road and a frontage road	
	Monument Identification Sign on Second Frontage	If establishment has frontage on more than one public ROW, 1 additional monument sign is allowed	Max. height: 17 ft Min. street setback: 15 ft Min. setback from other property lines: 10 ft Max sign copy area: 24 sf	
	Wall Mounted, Marquee, or Canopy Signs	Multiple	Allowed up to total permitted sign copy area, provided that not more than ten percent of any wall area shall be used for signage.	
	Hospitals	1 additional sign identifying emergency entrances	May be illuminated ground or wall sign Max. sign area: 16 sf.	

D. Interstate Highway Interchange Area Signs⁵⁸⁶

The Building Official may approve interstate highway interchange area signs in accordance with the following:

1. Purpose

It is the purpose of this subsection to provide on-site signage visible from I-75 for auto- and traveler-oriented commercial establishments located in accordance with subsection 2 below.

2. Location⁵⁸⁷

Interstate highway interchange area signs shall be located within one quarter mile of the midpoint of an I-75 intersection and are prohibited in the eastern quadrant of the Corkscrew Road intersection with I-75.

⁵⁸⁶ This carries forward Sec. 30-154 of the transitional LDC.

⁵⁸⁷ This carries forward Secs. 30-154(2) and 30-154(4) but omits references to the I-75 interchange with Daniels Road and Alico Road, which are outside the Village.

3. *Application for Approval*

In addition to the procedures set forth in Sec. 2-505.B, Monument Sign Permit, the following additional materials shall be submitted with the application.

- A. Where applicable, as determined by the Building Official, a letter from the Southwest Florida International Airport confirming they have no objection to the proposed location and height of the sign; and
- B. A notarized letter from the property owner consenting to the application, where the applicant is not the property owner.

4. *Spacing and Dimensional Regulations*

- A. Only one interstate highway interchange area sign structure may be located in each quadrant of the I-75 interchange, but the structure may contain identification messages visible to both directions of travel along the interstate.
- B. The maximum height of an interstate highway interchange sign shall be 50 feet, and the maximum sign area shall be 400 square feet.
- C. Property owners who erect an interstate highway interchange sign in the western quadrants of the Corkscrew Road intersection with I-75 may also install one additional on-site sign. The additional on-site sign will not be included in calculating sign area or the number of signs permitted by other regulations in this subsection.
- D. The bottom of the sign shall be a minimum of 30 feet above grade.
- E. There shall be a minimum 15-foot setback from street rights-of-way or street easements.

5. *Exclusion from Other Sign Calculations*

Interstate highway interchange area signs are not included in calculating sign area or the number of signs permitted by other regulations in this section.

6-302. OFF-SITE SIGNS⁵⁸⁹

Bus benches with signs and bus shelter signs shall only be provided by the Village or Lee County.

SECTION 6-4. NONCONFORMING SIGNS⁵⁹¹

6-401. GENERAL

Nonconforming signs shall be subject to the standards in this section.

6-402. STATUS⁵⁹²

Every sign which was a permitted legally existing sign at the time of its erection and which no longer complies with the standards of this chapter is deemed a legal nonconforming sign. For purposes of this section, a permitted legally existing sign means a sign that was constructed or in place with a valid permit from Lee County prior to December 31, 2014, or from the Village of Estero on or after December 31, 2014.

⁵⁸⁹ This carries forward Chapter 30 Article IV Division 3 of the transitional LDC, but omits Sec. 30-181 relating to off-site directional signs, which are not allowed in the Village pursuant to Sec. 33-383(9), and the provisions relating to billboards which are prohibited in the comprehensive plan.

⁵⁹¹ This carries forward Sec. 30-55 of the transitional LDC, with minor revisions for clarity.

⁵⁹² This updates Sec. 30-55(a) of the transitional LDC. Revisions are made to clarify the definition of nonconforming signs to make clear that a legally nonconforming sign is a sign that was legally permitted and now no longer meets the standards of this chapter. Under the provision in the transitional LDC, the only nonconforming signs are those erected before August 21, 1985. The provision states: "Every sign, erected before August 21, 1985, which was a permitted legally existing sign is deemed a legal nonconforming sign. A permitted sign means a sign that was constructed or is in place with a valid permit from the county. All nonconforming signs are subject to the provisions of this section. All existing signs that are not legal nonconforming signs must comply with the terms of this chapter."

6-403. MAINTENANCE

A. Maintenance Required

Nothing in this subsection shall relieve the owner or user of a legal nonconforming sign or owner of the property on which the legal nonconforming sign is located from compliance with the provisions of this LDC, in particular this Chapter 6: Signage, regarding safety, maintenance, and repair of signs.

B. Maintenance Limits

Any repair or refurbishing of a nonconforming sign that exceeds 25 percent of the value of the sign in its preexisting state shall be considered as an act of placing a new sign and not an act of customary maintenance (see Sec. 6-405.A, Creation of Illegal Sign). It shall be the responsibility of the permittee to provide the Director with adequate proof of the cost of such work in the form of an itemized statement of the direct repair cost when requested.

C. Lighting

The act of lighting a nonconforming sign shall be considered as an act of placing a new sign and not an act of customary maintenance (see Sec. 6-405.A, Creation of Illegal Sign).

6-404. RECONSTRUCTION AFTER DAMAGE

If any nonconforming sign is destroyed to an extent of 50 percent or more of its assessed value at the time of destruction, the sign shall not be replaced or repaired, in part or in full, except in full compliance with this Chapter 6: Signage.

6-405. LOSS OF LEGAL NONCONFORMITY

A. Creation of Illegal Sign

A nonconforming sign shall become an illegal sign if:

1. More than 50 percent of the sign is removed or unassembled for a period of more than six months.
2. A sign face remains blank, defined as void of advertising matter, for a period of 12 months. Signs displaying an "available for lease" message or similar message, and partially obliterated signs which do not identify a particular product, service, or facility are considered to be blank signs.
3. The sign is altered or relocated in any manner which increases its nonconformity or causes it to be less in compliance with the provisions of this chapter.
 - A. A change in the copy of a sign listed as a prohibited sign in Sec. 6-104, Prohibited Signs, is presumed to be an alteration which increases nonconformity.
 - B. To establish that the nonconformity is not increased by replacing copy on a sign, other than on a changeable copy sign (where it is presumed that changing copy cannot increase nonconformity) or a prohibited sign (where a change of copy is never allowed), a sealed statement from a state-certified engineer certifying that the sign meets the structural integrity required by the current applicable Building Code shall be submitted to the Building Official in those instances when engineering documents are required for original placement of such a sign (see Sec. 2-505.B, Monument Sign Permit).
4. Repair or refurbishment in excess of 25 percent of the value of the sign in its preexisting state.
5. A billboard is expanded or the copy area of the sign is converted to an electronic sign, except along state or county roads where state law provides otherwise.
6. The sign is replaced.

B. Disposition of Illegal Sign

1. A nonconforming sign that has lost its nonconforming status shall be immediately brought into compliance with Chapter 6: Signage, or the sign shall be removed.
2. The existence of an illegal sign or a nonconforming sign does not constitute a hardship warranting the issuance of a variance from the provisions of this section or Chapter 6: Signage.

CHAPTER 8

PUBLIC FACILITY FUNDING AND COORDINATION

COMMENTARY

Chapter 8: Public Facility Funding and Coordination, consolidates standards in the LDC regarding the obligation of new development to contribute to the financing and construction of public infrastructure, or to ensure compliance with concurrency standards.

- **Section 8-1, Impact Fees**, carries forward and refines the provisions in Chapter 2, Article VI of the transitional LDC relating to road and park impact fees. The separate provisions in the transitional LDC relating to regional park impact fees and community park impact fees have been merged into one provision governing park impact fees. It also incorporates Village Ordinance 2018-09 establishing a new fee schedule for road impact fees, and Ordinance 2018-10 establishing a new fee schedule for park impact fees. In addition, the section opts into Lee County's fire protection, emergency medical services, and school impact fees, and conforms the provisions to the organization and format of this LDC.
- **Section 8-2, Concurrency Management**, carries forward, clarifies, and simplifies the concurrency provisions in Chapter 2, Article II, Division I of the transitional LDC and conforms the provisions to the policy direction in the comprehensive plan (this draft includes concurrency standards for potable water facilities, sanitary sewer facilities, solid waste disposal facilities, surface water management, and public schools), and conforms the provisions to the organization and format of this LDC.

Note: This commentary is provided for reference purposes. It will be deleted in the adopted LDC.

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CHAPTER 8. PUBLIC FACILITY FUNDING AND COORDINATION

SECTION 8-1. IMPACT FEES

8-101. PURPOSE⁷¹²

- A. The purpose of this section is to regulate the use and development of land to ensure that new development bears a proportionate share of the cost of capital expenditures to provide capital facilities made necessary by the new development.
- B. Prior to issuance of a building permit for development in the Village, an applicant shall pay all impact fees required under this section. No building permit shall be issued until all impact fees required under this section are paid.
- C. Development that has submitted an application for a building permit shall pay the impact fee for the proposed development in effect on the date the application is determined complete.⁷¹⁴
- D. The United States, the State of Florida, and the School Board of Lee County are exempted from the payment of impact fees.

8-102. ROAD IMPACT FEES⁷¹⁵

A. Applicability and Exemptions

- 1. The following are exempt from payment of the road impact fee. Any exemptions shall be claimed by the feepayer before the issuance of a building permit.
 - A. Alterations or expansion of an existing building or use of land where no additional living units will be produced, where the use is not changed, and where the alteration or expansion will not produce more vehicular trips than the existing use.
 - B. Construction of accessory buildings or structures that will not produce more vehicular trips than those produced by the principal building or use of the land.
 - C. The replacement of an existing lawfully permitted building, mobile home, park trailer, or structure, provided that no additional vehicular trips will be produced than those produced by the original use of the land.
 - D. A building permit for which the road impact has been or will be paid or provided for in accordance with a written agreement, development approval, development order, or permit that, by its written terms, clearly and unequivocally was intended to provide for the full mitigation of the projected impact.
- 2. In the case of structures, mobile homes, or park trailers that are moved from one location to another, a road impact fee shall be collected for the new location if the structure, mobile home, or park trailer constitutes one of the land development uses listed in subsection B below, regardless of whether road impact fees had been paid at the old location, unless the use at the new location is a replacement of an equivalent use. If the structure, mobile home, or park trailer moved is replaced by an equivalent use, no road impact fee is owed for the replacement use. In every

⁷¹² This carries forward Secs. 2-261 (authority for roads impact fees), 2-301 (authority for regional parks impact fees), and 2-341 (authority for community parks impact fees) of the transitional LDC. The citation to Sec. 380.06(16), Fla. Stat., has been updated to Sec. 380.06(5).

⁷¹⁴ This provision is added to address a new requirement in SB 1066.

⁷¹⁵ This carries forward Chapter 2 Article VI Division 2 of the transitional LDC, Sec. 2-261, *et seq.*, with revisions to implement City policy direction, and incorporates the changes included in Ordinance 2018-09. Changes are also made to conform to Ordinance 2018-09; for example, Sec. 2-269 establishes five roads impact fee trust accounts for each of the five benefit subdistricts, but Ordinance 2018-09 replaced the five benefit subdistricts from Lee County with a single subdistrict. Therefore, when carrying forward Sec. 2-269, changes are made to the text to reference the single benefit district. In addition, the definitions in Sec. 2-264 have been included in Chapter 10: Definitions and Rules for Construction, Interpretation, and Measurement. The definition regarding road right-of-way to delineate road impact fee district boundaries has not been carried forward because there is only one road impact fee district.

case, the burden of proving past payment of road impact fees or equivalency of use rests with the feepayer.

B. Computation of Amount⁷¹⁶

1. Schedule

Unless the feepayer elects to provide an independent calculation in accordance with this section, the amount of the road impact fee shall be determined by the schedule set forth in Table 8-102.B: Road Impact Fee Schedule. The reference in the schedule to square feet refers to the gross square footage of each floor of a building measured to the exterior walls, and not usable, interior, rentable, non-common, or other forms of net square footage. The reference in the schedule to mobile home/RV park site refers to the number of mobile home or recreational vehicle sites permitted by the applicable approved development order.

TABLE 8-102.B: ROAD IMPACT FEE SCHEDULE		
Land Use Type	Unit	Road Impact Fee Due
Residential		
Single-family residence (Detached)	Dwelling Unit	\$9,966
Multi-Family, Low Rise (including two-family attached and townhome 1-2 story)	Dwelling Unit	\$7,750
Multi-Family, Mid-Rise (3-10 stories)	Dwelling Unit	\$5,760
Multi-Family, High-Rise (11+ stories)	Dwelling Unit	\$4,700
Mobile home/RV park	Pad/Park site	\$5,293
Assisted Living Facility (ALF)	Dwelling Unit	\$2,138
Continuing Care Retirement Community	Dwelling Unit	\$2,540
Hotel/Motel or timeshare	Room/unit	\$4,497
Retail Commercial		
Shopping Center	1,000 sq. ft.	\$11,476
Bank	1,000 sq. ft.	\$25,579
Car wash, Self-service	Stall	\$6,112
Convenience store with gas sales (<10 fuel positions)	Per Fuel Position	\$18,979
Convenience store or super convenience store with gas sales (10+ fuel positions)	Per Fuel Position	\$13,565
Golf course (open to public)	Acre	\$2,277
Cinema or theater	1,000 sq. ft.	\$26,985
Restaurant, Standard	1,000 sq. ft.	\$22,019
Restaurant, Fast Casual	1,000 sq. ft.	\$39,277
Restaurant, Fast Food	1,000 sq. ft.	\$48,912
Office/Institutional		
Office	1,000 sq. ft.	\$7,614
Hospital	1,000 sq. ft.	\$7,920
Nursing Home	1,000 sq. ft.	\$4,907
Place of Worship	1,000 sq. ft.	\$4,712
Day Care Center	1,000 sq. ft.	\$10,345
Elementary/Secondary School (private)	1,000 sq. ft.	\$3,893
Industrial		
Industrial park or general industrial	1,000 sq. ft.	\$3,380
Warehouse	1,000 sq. ft.	\$1,749

⁷¹⁶ This carries forward Sec. 2-266 of the transitional LDC, as amended by Ordinance 2018-09, with refinements to clarify language.

TABLE 8-102.B: ROAD IMPACT FEE SCHEDULE

Land Use Type	Unit	Road Impact Fee Due
Warehouse/High-Cube	1,000 sq. ft.	\$1,409
Mini-Warehouse (Self-Storage)	1,000 sq. ft.	\$1,085
Mine	Cubic Yard	\$0.04

NOTES:

[1] Mobile homes not located within an established mobile home park will be treated as a single-family residence for impact fee calculation purposes.

[2] Impact fees for a golf course (i.e., tees, fairways, greens, accessory structures such as golf cart houses, etc.) are due and payable prior to the issuance of the first building permit for the golf course. The golf course club house and related club house facilities will not be included in the impact fee calculation for the golf course. Impact fees for the club house and related facilities will be calculated separately, at the time of building permit issuance for these facilities, based upon the uses encompassed by the club house facility.

[3] If a building permit is requested for a building with more than one principal use, then the fee will be determined according to the schedule set out in this subsection by apportioning the total space within the building according to the space devoted to each principal use. A shopping center will be considered a principal use; however, when located within a shopping center, a fast-food restaurant or convenience store with gasoline sales will be considered a principal use.

2. If the type of development activity for which a building permit is applied is not specified on the fee schedule set out in this section, the Director⁷²³ will use the fee applicable to the most nearly comparable type of land use on the fee schedule set out in this subsection. The Director shall be guided in the selection of a comparable type by the ITE "Trip Generation" Manual (latest edition), studies or reports done by USDOT or FDOT, and articles or reports appearing in the ITE Journal and other reliable sources. If the Director determines that there is no comparable type of land use on the fee schedule set out in this subsection, then the Director shall determine the fee by:
 - A. Using traffic generation statistics or other relevant data from the sources named in this subsection; and
 - B. Applying the formula set forth in subsection 5 below.
3. The road impact fee for a change of use, redevelopment, or modification of an existing use shall be based upon the net increase in the impact fee for the new use as compared to the previous use. However, no impact fee refund or credit will be granted if a net decrease results.
4. If the road impact fee has been calculated and paid based on error or misrepresentation, it shall be recalculated and the difference refunded to the original feepayer or collected by the Village, whichever is applicable. If road impact fees are owed, no Village permits of any type shall be issued for the building or structure in question, or for any other portion of a development of which the building or structure in question is a part, until impact fees are paid. The Building Official may bring any action permitted by law or equity to collect unpaid fees.
5. If a feepayer opts to have the impact fee determined through an independent study, then the feepayer shall prepare and submit such study to the Director. The study shall measure the impact of the development in question on the affected road system(s) by following prescribed methodologies and formats for the study acceptable to the Director. The feepayer shall attend a pre-application meeting with the Director to discuss the traffic engineering and economic documentation required to substantiate the request. The traffic engineering and economic documentation submitted shall address all aspects of the impact fee formula that the Director determines to be relevant in defining the project's impacts at the pre-application meeting and shall show the basis upon which the independent fee calculation was made, including but not limited to the following:

⁷²³ In the transitional LDC, the responsible party is the County Manager.

A. *Traffic Engineering Studies*

All independent fee calculation studies shall address the following:

1. Documentation of trip generation rates appropriate for the proposed land development activity;
2. Documentation of trip length appropriate for the proposed land development activity; and
3. Documentation of the percent of new trip data appropriate for the proposed land development activity.

B. All buildings, structures, and facilities capable of being used by the public shall be charged the full road impact fee set forth for that use in Table 8-102.B: Road Impact Fee Schedule. However, the Village recognizes that there are instances where a building, structure, or facility capable of public use is actually restricted to the private use of a specific development (i.e., private clubhouse dining facilities built as a planned development amenity). In these instances, a reduced impact fee may be claimed by the property owner in accordance with the following:

1. Filing of an independent fee calculation study ultimately approved by the Director; or
2. Acceptance by the developers and property owner, as a condition of building permit or development order approval, that:
 - (a) The developer or owner shall submit documentation, acceptable to the Director, that shows the proposed private use will have no off-site road impacts;
 - (b) The proposed use shall be restricted to the sole use of the residents of the subdivision by covenants acceptable to the Village Attorney and enforced by a property owner's association or similar entity;
 - (c) The certificate of occupancy shall be revoked if the Director determines the proposed private use has changed in character to that of a public use, and the certificate of occupancy shall not be reinstated until the full impact fee is paid; and
 - (d) The Director shall withhold all building permits and development approvals for all phases or parts of the development connected with, or entitled to use the proposed private facility until the full impact fee is paid.

C. The impact fee schedule set forth in Table 8-102.B: Road Impact Fee Schedule, shall be updated periodically as necessary.

C. Payment⁷²⁵

1. The feepayer shall pay the road impact fees required by this section to the Building Official prior to the issuance of any building permit for which the fee is imposed, except as provided in subsections A above and H through J below.
2. In-lieu of cash, up to 100 percent of the road impact fees may be paid with credits created in accordance with the provisions of subsections H through J below.
3. All funds collected in accordance with this section shall be promptly transferred for deposit into the road impact fee trust fund to be held in a separate account as determined in subsection D below and used solely for the purposes specified in this section.

D. Benefit District Established⁷²⁶

1. There is hereby established one benefit district within the Village.
2. Subdistricts may be created by further legislation.

⁷²⁵ This carries forward Sec. 2-267 of the transitional LDC

⁷²⁶ This carries forward Section 4 of Ordinance 2018-09 (amending Sec. 2-268 of the transitional LDC).

E. Trust Fund Account⁷²⁷

1. There is hereby established a road impact fee trust fund account for the road impact fee benefit district established in subsection D above.⁷²⁸
2. Funds withdrawn from this account shall be used in accordance with the provisions of subsection F below.

F. Use of Funds⁷²⁹

1. Funds collected from road impact fees, including any interest earned but excluding administrative charges, shall be used for the purpose of capital improvements to approved roads. Funds shall not be used for periodic or routine maintenance. These impact fee funds shall be segregated from other funds and expended in the benefit district. Funds may be used or pledged in the course of bonding or other lawful financing techniques, as long as the proceeds raised are used for the purpose of capital improvements to approved roads. If these funds or pledge of funds are combined with other revenue sources in a dual or multipurpose bond issue or other revenue-raising device, the proceeds raised shall be divided and segregated, such that the amount of the proceeds reserved for road purposes bears the same ratio to the total funds collected that the road impact fee funds used or pledged bear to the total funds used or pledged.
2. Each fiscal period the Manager, consistent with the provisions of any interlocal agreements made with the County or other municipalities, shall present to the Village Council a proposed capital improvement program for roads, assigning funds, including any accrued interest, from the road impact fee trust fund to specific road improvement projects. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the road impact fee trust fund until the next fiscal period, except as provided by the refund provisions of this section.⁷³⁰
3. The Village is entitled to charge and collect an amount equal to up to three percent of road impact fees it collects in cash, or by a combination of cash and credits, as an administrative fee to offset the costs of administering this section. This administrative charge is in addition to the impact fee amount required by this section. The applicant is responsible for payment of the administrative charge in conjunction with the payment of impact fees at the time a building permit is issued.

G. Refund of Fees Paid⁷³¹

1. If a building permit expires, is revoked or voluntarily surrendered and therefore voided, and no construction or improvement of land (including moving a mobile home onto land) has commenced, then the fee payer is entitled to a refund of the road impact fee paid as a condition for its issuance, except that up to three percent of the impact fee paid will be retained as an administrative fee to offset the cost of processing the refund. This administrative fee is in addition to the charge collected at the time of fee payment. No interest will be paid to the fee payer on refunds due to noncommencement.
2. Funds not expended or encumbered by the end of the calendar quarter immediately following ten years from the date the road impact fee was paid shall, upon application of the fee payer within 180 days of that date, be returned to the fee payer with interest at the rate of three percent per annum.⁷³²

H. Prepayment of Fees⁷³³

Prepayment of road impact fees will be accepted by the Village as permitted by law and in accordance with the following:

⁷²⁷ This carries forward Sec. 2-269 of the transitional LDC but amends the reference to the five roads impact fee trust accounts, which referenced the five benefit districts established in Sec. 2-268 of the transitional LDC.

⁷²⁸ The original provision contained a second paragraph which is not carried forward regarding subsidiary accounts as they reference interlocal agreements which would be appropriate for the county and its municipalities and planning areas. Language has been removed regarding those subsidiary accounts.

⁷²⁹ This carries forward Sec. 2-270 of the transitional LDC. References to multiple roads impact fee trust funds accounts have been changed to the singular.

⁷³⁰ Because there is only one road impact fee trust fund, Sec. 2-270(c) was deleted.

⁷³¹ This carries forward Sec. 2-271 of the transitional LDC.

⁷³² The Florida Impact Fee Act is silent on the refund period.

⁷³³ This carries forward Sec. 2-272 of the transitional LDC.

1. Prepayment is specifically required or permitted by:
 - A. A DRI development order adopted in accordance with Ch. 380, Fla Stat.;
 - B. An agreement between the developer and Village made in accordance with Art. VII of the Fla. Const. and Sec. 166.021, Fla Stat.; or
 - C. A development agreement in compliance with Secs. 163.3220-163.3243, Fla. Stat. (The Florida Local Government Development Agreement Act).
2. Prepayment is made by certified check or cashier's check accompanied by a letter identifying the amount to be prepaid and the document allowing prepayment delivered to the Director.
3. The Village shall issue credit equal to the prepayment, subject to the express terms of the development order, agreement, or development agreement.

I. Deferral of Fees⁷³⁴

1. Deferrals shall be limited to the following:
 - A. Persons seeking building permits for a shell building may, at their option, defer payment of road impact fees until issuance of any interior completion permits.
 - B. No interior completion permit shall be issued until the applicant pays the corresponding road impact fee that is due, or demonstrates to the Building Official that the road impact fee due has already been paid for the unit(s) to be completed.
2. Deferrals shall be claimed by the feepayer at the time of the application for a building permit. Any deferrals not so claimed are deemed waived by the feepayer.

J. Credits⁷³⁶

1. General

Credits are subject to the following:

A. Prohibition

No credit will be given for:

1. Site-related improvements;
2. Local roads; or
3. Access roads needed to achieve site location standards for commercial development or for internal circulation unless required by the Village pursuant to criteria in this LDC.

B. Capital Improvement to Approved Roads

1. All capital improvements for roads in the Village five-year Capital Improvements Program are eligible for road impact fee construction credits, except for those improvements deemed site-related in accordance with a participating Village or state development or zoning approval, and may generate road impact fee credits in amounts to be established in accordance with subsection C below. The right to determine whether a capital improvement will be approved for credit purposes lies exclusively with the Village Council.
2. If the improvement is not site-related and is required under a participating Village or state development or zoning approval, credits will be given to the extent required by law.

C. Conditions of Credit Approval

Credit for road construction or land dedication is subject to the following:

1. Road Construction

- (a) A request submitted for road impact fee construction credits shall include a detailed project description and complete cost estimates, prepared by a qualified professional, sufficient to enable the Manager or a designee to verify the cost estimates and

⁷³⁴ This carries forward Sec. 2-273 of the transitional LDC.

⁷³⁶ This carries forward Sec. 2-275 of the transitional LDC except for subsection (f) which addresses reciprocity with municipalities and the circumstances under which the County would recognize credits issued by municipalities. In addition, subsection titles have been added to aid the legibility of the section.

determine the appropriate credit amount. The Manager or a designee may secure other engineering and construction cost estimates in order to independently determine the credit amount to recommend.

- (b) For all requests, the Manager or a designee shall make a recommendation to the Village Council on the appropriate amount of credits. Construction credits may be given at the discretion of the Village Council on a case-by-case basis if the Council finds that:
 - i. The construction will not increase public infrastructure costs to serve the new development, and
 - ii. Construction on the road for which credits are being sought is needed to insure adequate capacity on the Village road network.
- (c) The amount of credit approved by the Village Council is limited to the actual verified costs of construction and shall be reduced by the percentage that the new road's total capacity is expected to be utilized by local traffic from future development on adjacent lands owned or controlled by the grantor. This amount may be further reduced, at the Council's discretion, to reflect the Manager's or a designee's estimate of the value of the accelerated construction of the road in relation to the Village's schedule of planned road construction.

2. *Land Dedication*

- (a) The following documents shall be submitted to support an application for road impact fee credits applicable to land dedication for approved roads:
 - i. A signed and sealed ALTA survey prepared by a licensed professional surveyor and mapper and certified to the Village, encompassing the land to be dedicated to the Village and covered by the title insurance policy;
 - ii. A specimen of the deed that will be used to convey title to the appropriate governmental body;
 - iii. An ALTA Form B title insurance policy in an amount equal to the approved value of the credits, to be issued by a company satisfactory to the Village Land Use Attorney and verifying that the proffered deed will convey unencumbered fee simple title to the appropriate governmental body;
 - iv. Property appraisals prepared by qualified professionals that appraise the road as part of the whole development;
 - v. A document from the Lee County tax collector stating the current status of the property taxes; and
 - vi. An affidavit of interest in real property in accordance with Sec. 286.23, Fla Stat. The affidavit shall certify to the Village the name and address of every person having a beneficial interest in the real property, however small or minimal. The disclosure affidavit shall specifically identify the property to be conveyed and be sworn before a notary.
- (b) These submittals shall be reviewed by the Manager or a designee in making the decision to recommend credits or the Village Council in deciding whether to approve credits.
- (c) Except where a dedication is made in accordance with a condition of zoning approval or development of regional impact development order, the appraiser shall value the land at its then-current zoning without any enhanced value that could be attributed to improvements on the parcel. If the land in question is subject to a valid agreement, development approval, or permit prescribing a different valuation, that document will control the date of valuation. If the dedication is made in accordance with a condition of development approval or permit and is not a site-related improvement and the condition does not specifically prescribe otherwise, then the land value will be based upon the value of the land as it existed prior to the approval containing the condition of dedication. The Manager or a designee may independently determine the amount

of credit to be recommended by securing other property appraisals for right-of-way dedications.

- (d) The amount of credit for dedication of right-of-way shall be limited to the minimum amount of right-of-way needed by the Village and the full value of the land in question, as determined by the methodology and procedures set out in this subsection. Credits for dedication of right-of-way may be given at the discretion of the Village Council on a case-by-case basis if the Council finds that:
 - i. The dedication will not increase public infrastructure costs to serve the new development, and
 - ii. Dedication (and future construction) of land for the road for which credits are being sought is needed to insure adequate capacity on the Village road network.
- (e) The amount of credit approved by the Village Council is limited to the value of the land in question, as determined by the methodology and procedures set out in this section, and may be reduced by the percentage the capacity of the road in question is reasonably expected to be utilized by local traffic from future development on adjacent lands owned or controlled by the grantor. This amount may be further reduced, at the Council's discretion, to reflect the Council's estimate of the value of the accelerated acquisition of the road in relation to the schedule of planned road construction. In every case, road impact fee credits shall be calculated consistent with Sec. 380.06(5), Fla Stat.⁷³⁸
- (f) Any person seeking credits for dedication of land shall meet with the Village Land Use Attorney, the Manager or a designee, and Community Development Department staff to seek agreement on appraisal methodology and assumptions before preparing any appraisals for valuation of land to be dedicated.

D. *Timing of Credit Issuance*

Credits for construction shall be created when the construction is complete and accepted by the Village for maintenance in accordance with the Village Administrative Manual or when the feepayer posts security for the costs of such construction. Credits for land dedication shall be created when the title to the land has been accepted by the Village and recorded in the official records of Lee County. No credits for construction or dedication shall be approved or created until the Village has established the location of the road in question using the procedures provided by law. Security in the form of cash, a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with the Village Council and made payable to the Village in an amount approved by the Manager or a designee equal to 110 percent of the full cost of construction. If the road construction project will not be constructed within one year of the acceptance of the offer by the Village, the amount of the security shall be increased by ten percent, compounded for each year of the life of the security. The form of the security shall be reviewed and approved by the Village Land Use Attorney prior to acceptance by the Village.

E. *Transferability*

- 1. Road impact fee credits may be transferred, sold, assigned, or conveyed from one development or parcel to another that is within the same road impact fee benefit district, or to an adjoining benefit district in the Village (if one exists) if the development or parcel receiving the transfer receives benefits from the improvement or contribution that resulted in the credit⁷⁴³ (also see Village Administrative Manual).⁷⁴⁵ Unless a longer period is specifically authorized by the Village Council, transferable credits shall be used within ten

⁷³⁸ The citation to Sec. 380.06(16), Fla. Stat., has been updated to Sec. 380.06(5).

⁷⁴³ This provision is added to address new provision in Florida Impact Fee Act added by SB 1066.

⁷⁴⁵ Because there is only one benefit district, and because the Village is not in the position of the County with respect to interlocal agreements with municipalities, several sentences in the original were not carried forward.

years of the date created.⁷⁴⁶ The creation date is the date the instruments conveying legal title to the land or improvements given in exchange for credits were recorded in the Lee County official record book. The creation date for credits in accordance with prepayment of fees under subsection H above shall be the date the prepayment is received by the Village. Credits not used within ten years of issue shall expire.

2. Any person who accepts credits in exchange for the dedication of land or improvements does so subject to the provisions and restrictions of this section.

F. *Withdrawal*

Any person who offers land or improvements in exchange for credits may withdraw the offer prior to the transfer of legal title to the land or improvements and pay the impact fees required by this section.

2. *Documentation Required*

Fee payers claiming credits shall submit documentation sufficient to permit the Director to determine whether the credits claimed are due and, if so, the amount of the credits.

3. *Timing of Credits Required to Be Claimed*

Credits shall be claimed by the fee payer at the time of the application for a building permit. Any credits not so claimed will be deemed waived by the fee payer.

K. *Appeals*⁷⁵⁰

Decisions made by the Director in the course of administering this section may be appealed to the Village Council in accordance with Sec. 2-506.D, Appeal of Administrative Official Decision.

L. *Enforcement*⁷⁵¹

1. A violation of this section may be enforced in accordance with the adopted code enforcement procedures (Ordinance 2015-14).
2. Knowingly furnishing false information to the Manager or a designee, the Director, or any other Village official who is charged with the administration of this section on any matter relating to the administration of this section constitutes a violation of this section.

8-103. PARK IMPACT FEES⁷⁵²

A. *Applicability and Exemptions*⁷⁵³

The following are exempt from payment of the park impact fee. Any exemptions shall be claimed by the fee payer before the issuance of a building permit.

⁷⁴⁶ The Florida Impact Fee Act does not specifically reference the period of time which a credit is valid for. The relevant statutory provision states:

(5) If a local government increases its impact fee rates, the holder of any impact fee credits, whether such credits are granted under s. 163.3180, s. 380.06, or otherwise, which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established. This subsection shall operate prospectively and not retrospectively.

⁷⁵⁰ This carries forward Sec. 2-276 of the transitional LDC but removes references to interlocal agreement and the county's responsibility for paying attorneys' fees.

⁷⁵¹ This carries forward Sec. 2-277 of the transitional LDC.

⁷⁵² This carries forward Chapter 2 Article VI Division 4 of the transitional LDC, Sec. 2-341 et seq., with refinements, and incorporates the changes included in Ordinance 2018-10. According to Ordinance 2018-10, there is intended to be only one parks impact fee. However, Ordinance 2018-10 did not repeal the regional parks impact fee provisions and retains five benefit park districts for regional parks. (Ordinance 2018-10 amended Sec. 2-308 to establish "a single Village-wide parks impact fee benefit district," but it did not amend Sec. 2-348 which establishes "five community parks impact fee benefit districts.") Given that the text of the ordinance establishes a single Village-wide parks impact fee benefit district, Division 3, which addresses the regional parks impact fee is not carried forward.

⁷⁵³ This carries forward Sec. 2-352(a) of the transitional LDC but eliminates exemptions that apply to geographic areas outside the Village.

1. Alteration or expansion of an existing building or use of land, where no additional living units will be produced and where the use is not changed.
2. The construction of accessory buildings or structures that will not produce additional living units.
3. The replacement of an existing lawfully permitted building, mobile home, park trailer, or structure, provided that no additional living units will be produced than those produced by the original use of the land.⁷⁵⁶
4. A building permit for which the park impact fee has been or will be paid or provided in accordance with a written agreement, development approval, or permit that, by its written terms, clearly and unequivocally was intended to provide for the full mitigation of the projected impact.
5. A building permit that does not result in an additional living unit.

B. Imposition of Fees⁷⁵⁹

1. Except as provided in subsections A above and I below, any person who seeks to develop land by applying to the Village for the issuance of a building permit for the purpose of making an improvement to land for one of the uses specified in subsection C below, is required to pay a park impact fee in the manner and amount set forth in this section. Payment of the park impact fee is for the purpose of providing regional and community parks to accommodate this new development.
2. No building permit for any activity requiring payment of an impact fee in accordance with subsection C below, shall be issued by the Building Official unless and until the park impact fee required by this section is paid.
3. In the case of structures, mobile homes, or park trailers that are moved from one location to another, a park impact fee shall be collected for the new location if the structure, mobile home, or park trailer constitutes one of the land development uses listed in subsection C below, regardless of whether park impact fees had been paid at the old location, unless the use at the new location is a replacement of an equivalent use. If the structure, mobile home, or park trailer moved is replaced by an equivalent use, no park impact fee is owed for the replacement use. In every case, the burden of proving past payment of park impact fees or equivalency of use rests with the feepayer.

C. Computation of Amount⁷⁶²

1. *Schedule*

Unless the feepayer elects to provide an independent calculation in accordance with this section, the amount of the park impact fee shall be determined by the schedule set forth in Table 8-103.C: Park Impact Fee Schedule.

TABLE 8-103.C: PARK IMPACT FEE SCHEDULE⁷⁶⁴		
Land Use Type	Unit	Impact Fee
Single-family residence (Detached)	Dwelling Unit	\$1,535
Multiple-family building, two-family dwelling, townhouse, two-family attached, timeshare	Dwelling Unit	\$1,162
Hotel/Motel	Room/unit	\$734
Mobile Home/RV Park site	Pad/park site	\$1,125

⁷⁵⁶ The subsection that followed has not been included because it references permits that were reinstated; however, the ability to reinstate, provided in Sec. 6-46 of the transitional LDC, expired as of June 1, 2012. The deleted subsection stated: "Building permits issued for commercial buildings and residential dwelling units reinstated by the Building Official in accordance with Chapter 6, are exempt from the payment of impact fee increases that occurred after issuance of the original permit. However, no impact fee refund or credit will be granted if a net decrease results."

⁷⁵⁹ This carries forward Sec. 2-345 of the transitional LDC.

⁷⁶² This carries forward Sec. 2-346 of the transitional LDC and Ordinance 2018-10.

⁷⁶⁴ The table is carried forward from Ordinance 2018-10, Section 2.

TABLE 8-103.C: PARK IMPACT FEE SCHEDULE⁷⁶⁴		
Land Use Type	Unit	Impact Fee
<p>NOTES:</p> <p>[1] Mobile homes not located within an established mobile home park will be treated as a single-family residence for impact fee calculation purposes.</p>		

2. Under this section, park impact fees become due and payable at the time of building permit issuance. For purposes of this section, a building permit is considered “issued” when the permit meets all of the following:
 - A. The permit is approved by the Building Official;
 - B. The permit has been picked up by the owner or the owner’s agent; and
 - C. All applicable fees have been paid.
3. When change of use, redevelopment, or modification of an existing use requires the issuance of a building permit, the park impact fee shall be based upon the increase in the impact fee for the new use as compared to the previous use. However, no impact fee refund or credit shall be granted if a net decrease results.
4. If the park impact fee has been calculated and paid based on error or misrepresentation, it shall be recalculated and the difference refunded to the original feepayer or collected by the Village, whichever is applicable. If park impact fees are owed, no participating Village permits of any type may be issued for the building or structure in question, or for any other portion of a development of which the building or structure in question is a part, until impact fees are paid. The Village may bring any action permitted by law or equity to collect unpaid fees.
5. The person applying for the issuance of a building permit may opt to submit evidence indicating that the fees set out in subsection 1 above are not applicable to the particular development. Based upon convincing and competent evidence, which shall be prepared and submitted in accordance with the Village Administrative Manual, the Village Council may reduce the fee, up to a maximum of 20 percent, if it is demonstrated it is appropriate for the particular development. The adjustment may include a credit of 25 percent for private recreational facilities provided to the development by the feepayer if the private recreational facilities serve the same purposes and functions as set forth in the comprehensive plan for recreation and open space.⁷⁷⁰
6. The impact fee schedule set forth in Table 8-103.C: Park Impact Fee Schedule shall be updated periodically as necessary.

D. Payment⁷⁷³

1. The feepayer shall pay the park impact fee required by this section to the Building Official prior to the issuance of the building permit for which the fee is imposed, except as provided in subsections A above and I below. No building permit shall be issued by the Building Official until the impact fee is paid, except as provided in subsections A above and I below.
2. In-lieu of cash, up to 100 percent of the park impact fee may be paid with credits created in accordance with the provisions of subsection I below.
3. All funds collected in accordance with this section shall be promptly transferred for deposit into the park impact fee trust fund to be held as determined in subsection F below and used solely for the purposes specified in this section.

E. Benefit District Established⁷⁷⁶

For purposes of this section, there is hereby established a single Village-wide park impact fee benefit district which is coterminous with the Village boundaries.

⁷⁷⁰ This reference has been updated from the Lee Plan to the Village comprehensive plan.

⁷⁷³ This carries forward Sec. 2-347 from the transitional LDC, except for Sec. 2-347(c) regarding remittance of impact fee collections from municipalities to the county.

⁷⁷⁶ This carries forward Sec. 2-348 of the transitional LDC.

F. Trust Fund Account⁷⁷⁷

1. There is hereby established a park impact fee trust fund account for the park impact fee benefit district established in subsection E above.
2. Funds withdrawn from this account shall be used in accordance with the provisions of subsection G below.

G. Use of Funds⁷⁷⁹

1. Funds collected from park impact fees shall be used for the purpose of capital improvements for Village parks. Park impact fee collections, including any interest earned thereon, less administrative costs retained in accordance with paragraph 3 below, shall be used exclusively for capital improvements for parks. These impact fee funds shall be segregated from other funds and be expended in the order in which they are collected. Funds may be used or pledged in the course of bonding or other lawful financing techniques, so long as the proceeds raised are used for the purpose of capital improvements for parks. If these funds or pledge of funds are combined with other revenue sources in a dual or multipurpose bond issue or other revenue-raising device, the proceeds raised thereby shall be divided and segregated such that the amount of the proceeds reserved for park purposes bears the same ratio to the total funds collected that the park impact fee funds used or pledged bear to the total funds used or pledged.
2. Each fiscal period the Manager shall present to the Village Council a proposed capital improvement program for parks, assigning funds, including any accrued interest, from the park impact fee trust funds to specific park projects. Monies, including any accrued interest, not assigned in any fiscal period, shall be retained in the park impact fee trust fund until the next fiscal period, except as provided by the refund provisions of this section.
3. The Village is entitled to charge and collect an amount equal to up to three percent of the park impact fees it collects in cash, or by a combination of cash and credits, as an administrative fee, to offset the costs of administering this section. This administrative charge is in addition to the impact fee amount required by this section and is not required to be used for purposes of capital improvements. The applicant is responsible for payment of the administrative fee in conjunction with the payment of impact fees at the time a building permit is issued.

H. Refund of Fees Paid⁷⁸²

1. If a building permit expires, is revoked or voluntarily surrendered, and therefore voided, and no construction or improvement of land (including moving a mobile home onto land) has commenced, then the feepayer is entitled to a refund of the park impact fee paid in cash as a condition for its issuance, except up to three percent of the impact fee paid, which shall be retained as an administrative fee to offset the costs of processing the refund. This administrative fee is in addition to the administrative charge collected at the time of fee payment. No interest shall be paid to the feepayer on refunds due to noncommencement.
2. Funds not expended or encumbered by the end of the calendar quarter immediately following ten years⁷⁸⁴ from the date the park impact fee was paid shall, upon application of the feepayer within 180 days of that date, be returned to the feepayer with interest at the rate of three percent per annum.

I. Credits⁷⁸⁵

1. General

Credits are subject to the following:

⁷⁷⁷ This carries forward Sec. 2-348 of the transitional LDC.

⁷⁷⁹ This carries forward Sec. 2-350 of the transitional LDC.

⁷⁸² This carries forward Sec. 2-351 of the transitional LDC.

⁷⁸⁴ The Florida Impact Fee Act is silent on the refund period.

⁷⁸⁵ This carries forward Sec. 2-352(b) of the transitional LDC. This section is similar to Sec. 2-275 which is carried forward as Sec. 8-102.J and contains nearly identical language; however, unlike Sec. 2-275, the provisions in Sec. 2-352(b) do not contain explanatory titles. We have incorporated the explanatory titles from Sec. 2-352(b) into this section and have added additional subsection titles to aid in legibility as was done in Sec. 8-102.J.

A. *Private Recreational Facilities*

No credit shall be given for private recreational facilities, except in accordance with an application prepared and accepted in accordance with Sec. 8-103.C.5.⁷⁸⁶

B. *Capital Improvements to Parks*

1. All other capital improvements for parks may generate park impact fee credits in amounts to be established in accordance with subsection 2 below. The determination of whether a capital improvement shall be approved for credit purposes lies exclusively with the Village Council unless otherwise provided in an appropriate interlocal agreement, or unless the improvement is required under a participating state or county development or zoning approval, in which case credits shall be given to the extent required by law.
2. A request submitted for park construction shall include cost estimates prepared by qualified professionals to be used by the Manager or a designee in determining the amount of the credit the Manager or a designee recommends for approval to the Village Council.

C. *Land Dedication Credit*

1. A request submitted for a land dedication credit shall include the following:
 - (a) A survey of the land to be dedicated, certified by a professional land surveyor or a registered land surveyor, each of whom are licensed in the state of Florida;
 - (b) A specimen of the deed that will be used to convey title to the appropriate governmental body;
 - (c) An ALTA Form B title insurance policy in an amount equal to the approved value of the credits to be issued, by a company satisfactory to the Village Land Use Attorney and verifying that the proffered deed will convey unencumbered fee simple title to the appropriate governmental body;
 - (d) Property appraisals prepared by qualified professionals;
 - (e) A document from the Lee County Tax Collector stating the current status of the property taxes; and
 - (f) An affidavit of interest in real property in accord with Sec. 286.23, Fla Stat. The affidavit shall certify to the Village the name and address of every person having a beneficial interest in the real property, however small or minimal. The disclosure affidavit shall specifically identify the property to be conveyed and be sworn before a notary.
2. These submittals shall be reviewed by the Manager or a designee in making a recommendation to the Village Council.
3. Except where a dedication is made in accordance with a condition of development or zoning approval or permit, appraisers shall value the land at its then-current zoning without any enhanced value that could be attributed to improvements on adjacent lands. If the land in question is subject to a valid agreement, development approval, or permit prescribing a different valuation, the agreement, zoning approval, or development order will control. If the dedication is made in accordance with a condition of zoning approval and is not a site-related improvement, and the condition does not prescribe otherwise, then the land value will be based upon the zoning of the land as it existed prior to the zoning approval containing the condition of dedication. However, the Manager or a designee retains the right to independently determine the amount of credit to be recommended by securing other engineering and construction cost estimates or property

⁷⁸⁶ This subsection carries forward Sec. 2-352(b)(1) of the transitional LDC. The original provision stated that credit could be given for private recreational facilities if supported by an "independent fee calculation prepared and accepted in accordance with section 2-346(d)" of the transitional LDC. A maximum credit of 25 percent is added for such a credit. Section 2-346 has been carried forward as Sec. 8-103.C.3 above. However, the transitional LDC does not contain a section regarding independent fee calculation provision for the park impact fee (there is an independent fee calculation provision for road impact fees), and section 2-346(d)/ 8-103.C.3 does not do so. Therefore, we have updated the citation to reference Sec. 8-103.C.5 (sec. 2-346(f) of the transitional LDC) which allows an applicant to submit evidence to the Director to support a claim that a different fee should be charged but does not require an independent fee calculation.

appraisals for those improvements of land dedications. In every case, park impact fee credits shall be calculated to conform with Sec. 380.06(5), Fla Stat.⁷⁸⁷

D. *Timing of Credit Issuance*

Credits for construction will be created when the construction is completed and accepted by the Village, recorded in the official records of Lee County, and accepted for maintenance, or when the feepayer posts security, as provided in this subsection, for the costs of such construction. Security in the form of cash, a performance bond, irrevocable letter of credit, or escrow agreement shall be posted with the Village Council and made payable to the Village in an amount approved by the Manager or a designee equal to 110 percent of the full cost of such construction. If the park construction project will not be constructed within one year of the acceptance of the offer by the Village, the amount of the security shall be increased by ten percent, compounded for each year of the life of the security. The security shall be reviewed and approved by the Village Land Use Attorney prior to acceptance of the security by the Village.

E. *Transferability*

Park impact fee credits may be used to pay or otherwise offset park impact fees required by this section. They may be transferred, sold, assigned, or conveyed from one development or parcel to another that is within the same park impact fee benefit district, or to an adjoining benefit district in the Village (if one exists) if the development or parcel receiving the transfer receives benefits from the improvement or contribution that resulted in the credit (also see Village Administrative Manual).⁷⁸⁹ Unless a longer period is specifically authorized by the Village Council, transferable credits shall be used within ten years of the date they are created.⁷⁹¹ The creation date is the date the instruments conveying legal title to the land or improvements given in exchange for credits were recorded in the Lee County official record book. Credits not used within ten years of issue shall expire.

F. *Withdrawal*

Any person who offers land or improvements in exchange for credits may withdraw the offer of dedication at any time prior to the transfer of legal title to the land or improvements in question, and pay the full park impact fees required by this section.

G. *Prepayment*

If required or specifically permitted by the terms of a development order adopted pursuant to Ch. 380, Fla Stat., or by an agreement made by the Village in accordance with its home rule powers granted by Art. VIII of the Fla. Const. and Sec. 166.021, Fla Stat., or by a development agreement made in accordance with Secs 163.3220 - 163.3243, Fla Stat., and any ordinance adopted under the enabling authority thereof, any person who desires to prepay park impact fees may do so by delivering a certified check or cashier's check to the Director with a letter identifying the amount of park impact fees prepaid, and receive a credit or credits equal to such prepayment subject to the express terms of such development order, agreement, or development agreement.

2. *Documentation Required*

Feepayers claiming credits shall submit documentation sufficient to permit the Director to determine whether such credits claimed are due and, if so, the amount of such credits.

3. *Timing of Credits Required to Be Claimed*

Exemptions or credits shall be claimed by the feepayer before the issuance of a building permit.

⁷⁸⁷ The citation to Sec. 380.06(16), Fla. Stat., has been updated to Sec. 380.06(5).

⁷⁸⁹ This provision is added to address a requirement in SB 1066.

⁷⁹¹ NOTE TO STAFF: The Florida Impact Fee Act does not specifically reference the period of time which a credit is valid for. The relevant statutory provision states:

(5) If a local government increases its impact fee rates, the holder of any impact fee credits, whether such credits are granted under s. 163.3180, s. 380.06, or otherwise, which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established. This subsection shall operate prospectively and not retrospectively.

J. Appeals⁷⁹³

Any decision made by the Director in the course of administering this section may be appealed to the Village Council in accordance with Sec. 2-506.D, Appeal of Administrative Official Decision.

K. Enforcement⁷⁹⁴

1. A violation of this section may be enforced in accordance with the adopted code enforcement procedures (Ordinance 2015-14).
2. Knowingly furnishing false information to the Manager or a designee, the Director, or any other Village official who is charged with the administration of this section on any matter relating to the administration of this section constitutes a violation of this section.

8-104. COLLECTION OF ADDITIONAL IMPACT FEES

The Village is authorized to collect fire protection, emergency medical services, and school impact fees imposed by Lee County in accordance with state law; Chapter 2, Article VI of the Lee County Land Development Code; and interlocal agreements entered into with Lee County.

SECTION 8-2. CONCURRENCY MANAGEMENT

8-201. PURPOSE AND INTENT⁷⁹⁵

The purpose and intent of this section is to implement the comprehensive plan by ensuring that the public facilities needed to support development are available concurrent with the impacts of such development by providing that certain public facilities and services meet or exceed the standards established in the capital improvements element (CIE) in the comprehensive plan, and are available when needed for the development, while protecting vested rights as required by state law.

8-202. APPLICABILITY

A. General⁷⁹⁶

Unless exempted by subsection B below or vested by subsection C below, proposed development shall receive approval of a certificate of concurrency for the following public facilities in accordance with the requirements of this section, before approval of a development order, limited development order, plat, or building permit, as appropriate:

1. Potable water facilities;
2. Sanitary sewer facilities;
3. Solid waste disposal facilities;
4. Surface water management; and
5. Public schools.

B. Exemptions⁷⁹⁷

1. The following development is exempt from the requirements of this section:
 - A. A development permit approved in accordance with a development order issued under Secs. 380.06 and 380.061, Fla. Stat., in which the DRI development order separately provides for concurrency compliance and analysis;⁷⁹⁸

⁷⁹³ This carries forward Sec. 2-353 of the transitional LDC but removes references to interlocal agreement and the county's responsibility for paying attorneys' fees.

⁷⁹⁴ This carries forward Sec. 2-314 of the transitional LDC.

⁷⁹⁵ This section builds on Sec. 2-44 of the transitional LDC.

⁷⁹⁶ This subsection states what type of development is subject to the concurrency requirements. It builds on parts of Secs. 2-46 and 2-47 of the transitional LDC, but is simplified

⁷⁹⁷ This section on exemption consolidates all the exemptions in the transitional LDC for concurrency into one section, and no longer requires an applicant to receive approval of a Certificate of Concurrency Exemption. The Director will determine whether an exemption is appropriate subject to the exemptions in this subsection.

⁷⁹⁸ This exemption is carried forward from Sec. 2-46 (a)(4) of the transitional LDC.

- B. A development permit approved in accordance with a development agreement, where the development agreement makes separate provision for concurrency and analysis;⁷⁹⁹
 - C. A single-family dwelling;⁸⁰⁰
 - D. A two-family dwelling;⁸⁰¹
 - E. An accessory use;⁸⁰²
 - F. Recreational facilities for residential development, including but not limited to swimming pools, tennis courts, and similar uses;⁸⁰³
 - G. Commercial interior remodeling which is not for the purposes of changing use and does not increase floor area;⁸⁰⁴
 - H. Minor utilities;⁸⁰⁵
 - I. Seawalls or docks;⁸⁰⁶
 - J. Signs;⁸⁰⁷ and
 - K. Public transit facilities.⁸⁰⁸
2. In addition, the following development is exempt from the school concurrency requirements of this section:⁸⁰⁹
- A. Single-family lots that received final plat approval from Lee County prior to August 26, 2008.
 - B. Multi-family residential development that received a final development order and a concurrency certificate from Lee County prior to August 26, 2008.
 - C. Amendments to existing residential development approvals that do not increase the number of residential units or change the type of residential units proposed.
 - D. Other residential uses that do not generate school age children, such as licensed adult living facilities or age-restricted residential developments prohibiting persons under the age of 18 from residing there as permanent residents through recorded covenants and restrictions that cannot be amended for a period of 30 years.
 - E. DRIs approved in accordance with Ch. 380, Fla Stat., prior to [redacted] [*insert effective date of this LDC*], but only as to the number of residential units authorized in the DRI development order.

C. Vested Rights

The following development is vested and exempt from the requirements of this section.

1. A development approved as a DRI prior to March 1, 1989, is vested to complete the development in accordance with the specific provisions of the development order, including mitigation of all impacts, without having to comply with the requirements of this section. The vested status of a DRI development order will terminate on the expiration date of the DRI development order. (This does not exempt a developer from submission of project data required by the Director, since project data assists the Village in monitoring impacts on infrastructure as development occurs.)⁸¹¹ If the DRI is amended, it is subject to all concurrency requirements of this section on those portions of the development changed by the amendment, except if the amendment results in a reduction of anticipated impacts on public facilities, the Director may find the proposed amendment does not impair the overall vested status of the development.

⁷⁹⁹ This exemption is carried forward from Sec. 2-46 (a)(5) of the transitional LDC.

⁸⁰⁰ This exemption is carried forward from Lee County Administrative Code 13-9, referenced in the transitional LDC.

⁸⁰¹ This exemption is carried forward from Lee County Administrative Code 13-9, referenced in the transitional LDC.

⁸⁰² This exemption is carried forward from Lee County Administrative Code 13-9, referenced in the transitional LDC.

⁸⁰³ This exemption is carried forward from Lee County Administrative Code 13-9, referenced in the transitional LDC.

⁸⁰⁴ This exemption is carried forward from Lee County Administrative Code 13-9, referenced in the transitional LDC.

⁸⁰⁵ This exemption is carried forward from Lee County Administrative Code 13-9, referenced in the transitional LDC.

⁸⁰⁶ This exemption is carried forward from Lee County Administrative Code 13-9, referenced in the transitional LDC.

⁸⁰⁷ This exemption is carried forward from Lee County Administrative Code 13-9, referenced in the transitional LDC.

⁸⁰⁸ This exemption is required by Sec. 163.3180(h)(1)(a), Fla. Stat. The statutory definition of “public transit facility” has been added to the definitions section.

⁸⁰⁹ These exemptions are carried forward from Sec. 2- 46 (b)(2) of the transitional LDC.

⁸¹¹ This is carried forward from Sec 2-49 (c) of the transitional LDC, with language changes to make it more concise.

2. A development that has received a development order from Lee County subsequent to March 1, 1989, shall comply with the terms and conditions of the concurrency requirements in the DRI approval. If the development is amended, it is subject to all concurrency requirements of this section on those portions of the development changed by the amendment, except if the amendment results in a reduction of anticipated impacts on public facilities, the Director may find the proposed amendment does not impair the overall vested status of the development.⁸¹²

8-203. CERTIFICATE OF CONCURRENCY

A. General

Proposed development subject to the requirements of this section shall receive approval of a certificate of concurrency in accordance with this Section 8-2, Concurrency Management, before approval of a development order, limited development order, plat, or building permit, as appropriate.

B. Procedure

1. After submission of an application for a certificate of concurrency in a form established by the Director, and payment of the application fee established by the Village Council, the Director shall review the application and make a decision.
2. In reviewing the application, the Director shall consider the impact the development will have on potable water, sanitary sewer, surface water management, solid waste disposal facilities, and public schools. As part of this review, the Director should consider the type and intensity of the use of the proposed development in relation to the demands the use can reasonably be expected to make on these facilities, and the times when the demand can reasonably be expected to occur during the course of the development. When measuring the expected impacts of a development, the Director will include only the impacts of permanent and continuing infrastructure demands of the development. The Director should disregard temporary impacts such as fire flow tests. The Director may rely upon studies, measurements, or calculations prepared by qualified professionals, or upon generally accepted guidelines, rules, formulas, studies or other theories developed by professional experts working or publishing in the field of inquiry, or upon relevant historical trends or experiences, or upon related rules and standards adopted by other governmental agencies, or upon any combination of these sources. The burden of disproving the accuracy of the Director's determination lies with the applicant or the applicant's representative.⁸¹³
3. Once the Director has considered the impacts of a proposed development in accordance with B2 above, the Director will determine whether there will be sufficient capacity for these public facilities to serve the development at the time the impacts of the development will occur in accordance with Sec. 8-203.C, Concurrency Standards, without causing these facilities and services to function at a level of service below the minimum regulatory levels established for these facilities in the comprehensive plan.
4. If the Director determines the proposed development complies with Sec. 8-203.C, Concurrency Standards, the Director shall certify that conclusion by a written statement. The written statement will identify the development in question and the development permit for which the certification is made. The Director's statement constitutes the certificate of concurrency and is limited to the exact development permit application for which the certificate is approved.⁸¹⁴
5. If the Director determines the application fails to comply with the standards in Sec. 8-203.C, Concurrency Standards, the Director shall issue a finding that the proposed development will meet concurrency requirements if it is conditioned on the provision of specific facilities and services to serve the development which shall be in place when the impacts of the proposed development occur. When no solution can be identified to provide for the additional facility capacity required, a certificate of concurrency shall be approved that limits the amount of development that can be constructed (so the LOS standards will not be exceeded), or the application will be denied. If the Director approves a certificate that limits the amount of development that may proceed, no additional development may proceed unless and until

⁸¹² This is carried forward from Sec 2-49 (e) of the transitional LDC, with language changes to make it more concise.

⁸¹³ This generally carries forward Sec. 2-46 (c) of the transitional LDC.

⁸¹⁴ This builds on Sec. 2-46(d) of the transitional LDC.

additional public facilities to serve the development are put in place that ensure applicable level of service standards are not exceeded. If a certificate is approved subject to conditions, the conditions shall identify the minimum additions to the then-existing facilities that shall be built and operating, in addition to planned facilities that shall be constructed before further development shall occur.⁸¹⁵

6. If a developer proposes to develop in stages or phases so that facilities and services needed for each phase will be available in accordance with the standards set forth in this subsection, the Director may issue a certificate with conditions that establish related periods of time when additional development may occur if additional facilities identified by the Director are constructed.⁸¹⁶
7. A certificate subject to conditions may also be approved where the proposed development will comply with Sec. 8-203.C, Concurrency Standards, if certain documents not submitted with the initial application are subsequently delivered to the Director, or the proposed development permit is subject to the review of other Village, county, or state agencies.⁸¹⁷
8. A certificate of concurrency shall be valid for a period of three years from the date of approval of the certificate or for the remaining duration of the development permit with which it is issued, whichever is less, except a building permit issued based upon a valid certificate of concurrency shall be valid for the remaining duration of the building permit, so long as the building permit is applied for while the certificate is valid, the permit application is substantially complete, and the building permit is ultimately issued in the ordinary course. If a building permit is not issued within six months of the expiration date of the applicable certificate, a rebuttable presumption arises that the building permit has not been issued within the ordinary course as that term is used in this subsection.⁸¹⁸
9. Amendments to a certificate of concurrency shall be reviewed and decided consistent with the provisions for its original approval.

C. Concurrency Standards

A certificate of concurrency shall be granted only where the Director, with the assistance of appropriate Village staff, finds that all of the following standards are met by the applicant.

1. *Potable Water, Sanitary Sewer, and Solid Waste Facilities*

The proposed development complies with the level of service standards for potable water, sanitary sewer, and solid waste disposal facilities in the comprehensive plan. In determining if potable water, sanitary sewer or solid waste disposal facilities comply with the level of service standards in the comprehensive plan, the Director shall include the capacity of all facilities as they exist at the time the development permit will be issued, plus other facilities that are guaranteed in an enforceable development agreement (in accordance with either Sec. 163.3220, Fla. Stat. or Ch. 380, Fla. Stat.).⁸¹⁹

- A. Potable water supply and treatment capacity shall be based on the number of equivalent residential connections of the utility that will provide service to the development. The pressure in the distribution system shall be measured at the point where the service enters the development or at the point from which the service will be extended.⁸²⁰
- B. Sanitary sewer treatment and disposal capacity shall be based on the number of equivalent residential connections of the utility that will provide service to the development. The capacity of the collection system shall be measured at the point where the service enters the development or at the point from which the service will be extended.⁸²¹

⁸¹⁵ This generally carries forward Sec. 2-46 (k) of the transitional LDC.

⁸¹⁶ This carries forward the latter part of Sec. 2-46 (k) of the transitional LDC.

⁸¹⁷ This carries forward Sec. 2-46 (k)(4) of the transitional LDC.

⁸¹⁸ This carries forward Sec. 2-46 (m) (2) and (3) of the transitional LDC.

⁸¹⁹ This builds on Sec. 2-46 (f) of the transitional LDC.

⁸²⁰ This carries forward Sec. 2-46(e)(1) of the transitional LDC.

⁸²¹ This carries forward Sec. 2-46(e)(2) of the transitional LDC.

C. The capacity of the solid waste disposal facility shall be measured in pounds (or equivalent volume) and applied countywide.⁸²²

2. Surface Water Management Facilities

The proposed development complies with the level of service standards for surface water management facilities in the comprehensive plan. In determining if stormwater management facilities comply with the level of service standards in the comprehensive plan, the Director shall rely upon the reviews performed by the DEP and SFWMD. Runoff shall be measured at the points of discharge into an ultimate positive outfall beyond the outer edge of the development or at the nearest natural outfall. The adequacy of a surface water management system shall be conclusively demonstrated upon the issuance of a surface water construction and operating permit by SFWMD.⁸²³

3. Public School Facilities

- A. The proposed development complies with the level of service standard for public school facilities in the comprehensive plan. In determining if school facilities comply with the level of service standards in the comprehensive plan, the School Board of Lee County shall compile a school concurrency inventory report annually. The School Board shall inventory current school capacity and current occupancy by school type and by concurrency service area. Existing capacity shall be adjusted by adding the expected capacity increase from new or expanded planned school facilities for the next three years in accordance with the adopted School Board Capital Improvements Program. Current occupancy shall then be subtracted from existing and expected capacity to calculate the available capacity by school type by concurrency service area. The School Board shall transmit the school concurrency inventory to the Village. Upon its receipt, the Village shall determine whether there is adequate school capacity based on the level of service standard in the comprehensive plan.⁸²⁴
- B. If the concurrency report reflects there is not adequate capacity available in the concurrency service area for schools, mitigation options may be explored by proposed development that cannot comply with school concurrency. Mitigation options may include, but are not limited to:
1. The donation of land or funding of land acquisition or construction of a public school facility sufficient to offset the demand for public school facilities created by the proposed development (except relocatable classrooms shall not be accepted as mitigation); and,
 2. Establishment of a charter school with facilities constructed in accordance with the state requirements for educational facilities (SREF) on a site that meets the minimum acreage provided in SREF, subject to guarantees that the facility will be conveyed to the School Board of Lee County at no cost to the Board if the charter school ceases to operate.
- C. Proposed mitigation shall be directed towards a permanent school capacity improvement identified in the School Board's financially feasible work program, which satisfies the demands created by the proposed development. If mitigation can be agreed upon, the Village and the School Board shall enter into an enforceable binding development agreement with the developer.

8-204. APPEALS

An applicant may appeal the Director's decision in administering this section to the Village Council in accordance with Sec. 2-506.D, Appeal of Administrative Official Decision.

8-205. REVOCATION OF CERTIFICATE OF CONCURRENCY⁸²⁶

The Director may revoke a certificate of concurrency for cause, where a certificate has been issued based on substantially inaccurate information supplied by the applicant, or where revocation of the certificate is essential to the health, safety, or welfare of the public.

⁸²² This carries forward Sec. 2-46(e)(4) of the transitional LDC.

⁸²³ This builds on Sec. 2- 46(g) and also incorporates Sec. 2-46 (e) (3) of the transitional LDC.

⁸²⁴ This builds on Sec. 2- 46(j) of the transitional LDC.

⁸²⁶ This carries forward Sec. 2-53 of the transitional LDC.

8-206. FURNISHING FALSE INFORMATION⁸²⁸

Knowingly furnishing false information to the Director, or any Village Official, on matters relating to the administration of this section constitutes a violation of this LDC.

⁸²⁸ This carries forward Sec. 2-55 of the transitional LDC.

CHAPTER 9

NONCONFORMITIES

COMMENTARY

Chapter 9: Nonconformities, contains the rules governing the administration of nonconformities resulting from the application of this LDC, including nonconforming uses, buildings or structures, lots, and screening and buffering, as well as nonconformities created by eminent domain. This section carries forward, with refinements, Chapter 34, Article VIII of the transitional LDC and conforms the provisions to the organization and format of this LDC.

Note: This commentary is provided for reference purposes. It will be deleted in the adopted LDC.

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CHAPTER 9. NONCONFORMITIES

SECTION 9-1. PURPOSE⁸²⁹

The provisions of this LDC have caused or will cause some uses, structures or buildings, lots, or uses of lots, structures or buildings, to be nonconforming. It is the purpose of this chapter to set forth the rules and regulations regarding those nonconforming uses, structures or buildings, or lots which were created by the adoption of this LDC, and any amendment thereto. Nothing contained in this chapter is intended to preclude the enforcement of federal, state, and other local regulations that may be applicable.

SECTION 9-2. NONCONFORMING USE OF LAND

9-201. NONCONFORMING USE OF LAND DEFINED⁸³⁰

For purposes of this LDC, the term "nonconforming use" means a use or activity which was lawful prior to the adoption of this LDC or an amendment of this LDC, but which fails, by reason of such adoption or amendment, to conform to the use requirements of the zoning district in which it is located.

9-202. GENERAL⁸³¹

A nonconforming use of land may be continued subject to the provisions of this subsection.

9-203. ENLARGEMENT OR REPLACEMENT⁸³²

A nonconforming use of land may not be enlarged in area, or replaced by another use that is not specifically permitted in the applicable zoning district.

9-204. DISCONTINUANCE⁸³³

Land used in whole or in part for a nonconforming use, which use is subsequently discontinued for a continuous period of six calendar months, shall not again be used except in conformity with the regulations then in effect. The intent of the owner, lessee, or other user is not relevant in determining whether the use has been discontinued.

9-205. ERECTION OF ADDITIONAL STRUCTURES⁸³⁴

An additional structure that does not conform to the requirements of this LDC shall not be erected in connection with a nonconforming use of land.

SECTION 9-3. NONCONFORMING BUILDINGS AND USE OF BUILDINGS

9-301. NONCONFORMING BUILDINGS OR STRUCTURE DEFINED⁸³⁵

For purposes of this LDC, the term "nonconforming building or structure" means a building or structure which was lawful prior to the adoption of this LDC or an amendment of this LDC, but which fails, by reason of such adoption or amendment, to conform to the proper development requirements of the zoning district in which the building or structure is located due to its size, dimension, or location on the lot.

⁸²⁹ This carries forward Sec. 34-3201 of the transitional LDC.

⁸³⁰ This carries forward Sec. 34-3202 of the transitional LDC.

⁸³¹ This carries forward Sec. 34-3221 of the transitional LDC.

⁸³² This carries forward Sec. 34-3222 of the transitional LDC.

⁸³³ This carries forward Sec. 34-3223 of the transitional LDC.

⁸³⁴ This carries forward Sec. 34-3224 of the transitional LDC.

⁸³⁵ This carries forward Sec. 34-3241(a) of the transitional LDC.

9-302. CONTINUANCE OF NONCONFORMING BUILDING OR STRUCTURE⁸³⁶

A nonconforming building or structure may be continued so long as it remains otherwise lawful, in accordance with the following provisions:

- A. Except as provided in Sec. 9-303, Enlargement or Expansion of Nonconforming Structure, no building or structure shall be enlarged, altered, or repaired in a way which, in the opinion of the Director, increases its nonconformity. However, any structure or building or portion thereof may be altered to decrease its nonconformity. If there is more than one structure on a property with a legally nonconforming use, a limited expansion may be allowed subject to there being a determination that there will be an improvement to neighborhood compatibility. The limited expansion shall be to allow a structure or portion of a structure to be destroyed and the equivalent square footage replaced by expansion of another existing structure if the Director makes a determination that such expansion would not be detrimental to the neighborhood and such expansion is less than 50 percent of the current assessed value of the structure which will be expanded. Any expansion shall also conform to setback requirements and all other requirements for the zoning district in which the land is located.
- B. Except as provided in this subsection, any nonconforming structure or building, or portion thereof, that is substantially improved (reconstructed, rehabilitated, altered, or demolished) to the extent that the cost of such improvement equals or exceeds a cumulative total of 50 percent of the current assessed value of the structure before the start of construction of the improvement, shall only be reconstructed at, but not exceed, the lawful density or intensity existing at the time of destruction; provided, however, that the reconstruction of the structure is consistent with federal, state, and Village regulations and all the other provisions of this LDC. Any such alteration, demolition, reconstruction, or rebuilding shall be recorded with the Director for the purpose of establishing the value upon which subsequent alterations, demolition, reconstructions, or rehabilitations will be based.

9-303. ENLARGEMENT OR EXPANSION OF NONCONFORMING STRUCTURE⁸³⁷

- A. A structure which is lawful in all respects with the exception of a setback requirement may be enlarged, provided that:
 - 1. The enlargement is otherwise permitted; and
 - 2. The enlargement itself, including any enlargement which increases the height or volume of the structure, complies with all the setback requirements.
- B. A structure which is lawful in all respects with the exception of lot area requirements may be enlarged, provided that:
 - 1. The enlargement is otherwise permitted;
 - 2. All other development standards such as setbacks, height, bulk, lot coverage, parking, and open space are met; and
 - 3. The enlargement does not increase the density or intensity of use.
- C. A structure which is lawful in all respects with the exception of height may be enlarged, provided that:
 - 1. The enlargement is otherwise permitted; and
 - 2. The enlargement complies with height and setback requirements.
- D. A structure which is lawful in all respects with the exception of bulk or lot coverage shall not be enlarged.

⁸³⁶ This carries forward Sec. 34-3241(b)(1) and (2) of the transitional LDC.

⁸³⁷ This carries forward Sec. 34-3203 of the transitional LDC.

9-304. STRUCTURES DAMAGED BY FIRE OR OTHER NATURAL FORCES⁸³⁹

- A. Structures damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds 50 percent of the replacement cost of the structure may be reconstructed at, but not to exceed, the legally documented actual use, density, and intensity existing at the time of destruction, thereby allowing such structures to be rebuilt or replaced to the size, style, and type of their original construction, including their original square footage; provided, however, that the affected structure, as rebuilt or replaced, complies with all applicable federal and state regulations, Village building and life safety regulations, and other local regulations that do not preclude reconstruction.⁸⁴⁰
- B. A lawfully existing single-family dwelling or mobile home damaged by fire or other natural forces may be repaired or replaced, provided the new unit is no larger in area, width, and depth than the size of unit being replaced.

9-305. REPAIRS, RECONSTRUCTION, OR RENEWAL OF EXISTING STRUCTURE OR BUILDING⁸⁴¹

Repairs, reconstruction, or renewal of an existing structure, building, or portion thereof for the purpose of its maintenance may be permitted. However, repairs, reconstruction, or renewal of structural elements shall be reviewed by the Director to determine applicability under this subsection, or whether such repairs shall be considered under Sec. 9-304.A above. For purposes of this subsection, a change in the roofline from a flat roof to a peaked roof constitutes an alteration as indicated in Sec. 9-304.A above, provided that there is no increase in floor area.

9-306. MOVING NONCONFORMING STRUCTURE ON SITE⁸⁴²

Should a nonconforming structure be moved on-site for any reason, for any distance whatever, it shall not be moved unless the relocation decreases the nonconformity.

9-307. NONCONFORMING STRUCTURE THAT BECOMES PHYSICALLY UNSAFE OR UNLAWFUL DUE TO LACK OF REPAIR AND MAINTENANCE⁸⁴³

Any portion of a nonconforming structure that becomes physically unsafe or unlawful due to lack of repairs and maintenance, and which is declared unsafe or unlawful by a duly authorized Village official, but which the owner wishes to repair, restore, or rebuild, shall be repaired, restored, or rebuilt in conformance with the provisions of this LDC. Excluded from this provision are buildings that are designated as historic by the LDC.

9-308. DEVELOPMENT APPLICATIONS ON WHICH A NONCONFORMING STRUCTURE EXISTS⁸⁴⁴

Development order approvals, including amendments to existing or approved development orders, must be consistent with the comprehensive plan provisions (except as identified in Sec. 9-304), and approved zoning actions applicable to the subject property at the time the approvals are issued. Existing nonconforming structures on the property subject to the development order application must be brought into compliance with current Village regulations and approved zoning actions as a condition of the development order approval. The development order condition must provide that the nonconforming structure will either be removed or brought into compliance prior to the issuance of a certificate of compliance.

⁸³⁹ This carries forward Sec. 34-3241(b)(2)(b) and (3) of the transitional LDC.

⁸⁴⁰ The phrase "otherwise intended by the comprehensive plan" has been removed from the end of the last sentence.

⁸⁴¹ This carries forward Sec. 34-3241(b)(4) of the transitional LDC.

⁸⁴² This carries forward Sec. 34-3241(b)(5) of the transitional LDC.

⁸⁴³ This carries forward Sec. 34-3241(b)(6) of the transitional LDC.

⁸⁴⁴ This carries forward Sec. 34-3241(b)(7) of the transitional LDC.

SECTION 9-4. NONCONFORMING USES OF BUILDINGS⁸⁴⁵

9-401. ENLARGEMENT OR REPLACEMENT

No such nonconforming use of a building, or building and land in combination, shall be extended or enlarged, or replaced by another building or use not specifically permitted in the use regulations for the zoning district in which the building is located.

9-402. DISCONTINUANCE

When a nonconforming use of a building, land, or building and land in combination is discontinued or abandoned for six consecutive months (except when government action impedes access to the land), the building, or building and land in combination, shall not thereafter be used except in conformance with the regulations of the zoning district in which it is located. This subsection shall not apply to seasonal agricultural uses.

9-403. REPAIR AND MAINTENANCE

- A. Only ordinary repairs and maintenance, including repair or replacement of roof covering, walls, fixtures, wiring, or plumbing, shall be permitted on any building or structure devoted to a nonconforming use. In no case shall such repairs include structural alterations.
- B. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations for the zoning district in which it is located.

SECTION 9-5. NONCONFORMING LOTS

9-501. NONCONFORMING LOT DEFINED⁸⁴⁶

For purposes of this LDC, the term "nonconforming or substandard lot" means a lot of which the area, dimension, or location was lawful prior to the adoption of this LDC or an amendment of this LDC, but which fails by reason of such adoption or amendment to conform to the requirements for the zoning district in which the lot is located.

9-502. LOT OF RECORD DEFINED; GENERAL DEVELOPMENT STANDARDS⁸⁴⁷

- A. For the purposes of this subsection only, a lot of record is a lot which conformed to the minimum lot size for the use permitted for that lot in the zoning district in which it is located at the time that the lot was created, but which lot fails to conform to the minimum lot size requirements which are established by this LDC.
- B. For the purpose of this subsection, a lot is created on such date that one of the following conditions occur:
 - 1. The date that a deed for the lot is lawfully recorded in the public records of Lee County;
 - 2. The date that a subdivision plat is lawfully recorded in the public records of Lee County, if the lot is a part of the subdivision;
 - 3. The date that a development order or site plan for a development was approved by the Lee County Board of County Commissioners prior to December 31, 2014, or by the Village Council thereafter, pursuant to resolution, as long as the development subsequently recorded a subdivision plat that has been approved by the Lee Board of County Commissioners or the

⁸⁴⁵ This carries forward Sec. 34-3242 of the transitional LDC.

⁸⁴⁶ This carries forward Sec. 34-3271 of the transitional LDC.

⁸⁴⁷ This carries forward Sec. 34-3272 of the transitional LDC, excluding portions addressed instead in Sec. 905-4, Placement of Mobile Home or Recreational Vehicle on Lot.

Village Council, as appropriate, in the public records of the County, if the lot is a part of the subdivision; or

- C. Lots of record may be developed subject to the following provisions:
1. All other regulations of this LDC shall be met.
 2. No division of any parcel is permitted which creates a lot with width, depth, or area below the minimum requirements in this LDC, provided that abutting lots of record may be combined and re-divided to create larger dimension lots as long as such re-combination includes all parts of all lots, existing allowable density is not increased, and all setback requirements are met.
 3. For mobile home or recreational vehicle lots of record, the following shall also apply:
 - A. All mobile homes or recreational vehicles, including any attachments, shall be placed at least five feet from any body of water or waterway.
 - B. All mobile homes or recreational vehicles shall have a minimum separation of ten feet between units (body to body) and appurtenances thereto. Each unit is permitted to have eaves which encroach no more than one foot into the ten-foot separation.
 - C. Sites or lots located within a park shall not be reconfigured or reduced in dimension so as to increase the density for which the park was originally created.
 - D. The burden of proof that the lot is legally nonconforming, and lawfully existed at the specified date, shall be with the owner.

9-503. CONSTRUCTION OF SINGLE-FAMILY DWELLING

- A. A single-family residence may be constructed on a nonconforming lot of record that does comply with the density requirements of the comprehensive plan, as long as the lot:⁸⁴⁹
1. Was lawfully created prior to June 1962 and the following conditions are met:
 - A. Lots existing in the AG zoning district require a minimum width of 75 feet, a minimum depth of 100 feet, and a lot area not less than 7,500 square feet.
 - B. Lots existing in any other zoning district which permits the construction of single-family residence require a minimum of 40 feet in width and 75 feet in depth, and a lot area not less than 4,000 square feet.
 2. Is part of a plat approved by the Village Council, or the Lee County Board of County Commissioners before Village incorporation and lawfully recorded in the public records of the Village or County after June 1962.
- B. Notwithstanding any other provision of this LDC, any entity owning property or entering or participating in a contract for purchase agreement of property, which property is not in compliance with the standard density requirements of the comprehensive plan, will be allowed to construct one single-family residence on said property, provided that:⁸⁵⁰
1. *Date Created*
 - A. The lot or parcel must have been created and recorded in the official Plat Books of Lee County prior to December 21, 1984, and the configuration of said lot has not been altered;
 - B. A legal description of the lot or parcel was lawfully recorded in the Official Record books of the Clerk of Circuit County prior to December 21, 1984; or
 - C. The lot was lawfully created after December 21, 1984, and the lot area was created in compliance with the Lee Plan as it existed at that time.
 2. *Minimum Lot Requirements*

In addition to meeting the requirements set forth above, the lot or parcel must:

 - A. Have a minimum of 4,000 square feet of area if it was created prior to June 27, 1962;
 - B. Have a width of not less than 50 feet and an area of not less than 5,000 square feet if part of a subdivision recorded in the official Plat Books of Lee County after June 27, 1962, and prior to December 21, 1984;

⁸⁴⁹ This carries forward Sec. 34-3273(a)(2) of the transitional LDC.

⁸⁵⁰ This carries forward Sec. B.4.a., beginning on page XIII-6 of the Lee County Procedures and Administration Manual.

- C. Have a minimum of 7,500 square feet in area if it was created on or after June 27, 1962, and prior to December 21, 1984, if not part of a subdivision recorded in the official Plat Books of Lee County;
- D. Have been in conformance with the zoning regulations in effect at the time the lot or parcel was recorded if it was created after December 21, 1984; or
- E. Have been approved as part of a Planned Unit Development or Planned Development.

3. Access and Drainage

- A. In addition to meeting the requirements set forth above:
 - 1. The road that the lot or parcel fronts on must have been constructed and the lot must be served by drainage swales or equivalent drainage measures. The road must have, at a minimum, a graded surface of shell, mark, gravel base rock, or other compacted fill material, suitable for year-round use; or
 - 2. The lot or parcel must be located within a subdivision which was approved under Ch. 177, Fla. Stat., as long as the subdivision improvements have been made or security for their completion has been posted by the subdivider.
- B. If the lot or parcel cannot meet the requirement of access and drainage, this requirement will not apply to the extent that it may result in an unconstitutional taking of land without due process.

9-504. PLACEMENT OF MOBILE HOME OR RECREATIONAL VEHICLE ON LOT⁸⁵²

- A. A single-family mobile home or a recreational vehicle may be placed on a lot of record, which lot is located within a mobile home or recreational vehicle park, as applicable, provided, however, that the park was properly zoned or approved by special permit for mobile home or recreational vehicle use, and provided further that minimum requirements as set forth in this subsection were met at the time the lot was created. These requirements are as follows:
 - 1. For lots of record created prior to the effective date of Lee County's 1962 zoning regulations:⁸⁵³
 - A. The minimum lot area per unit shall be not less than 1,200 square feet; and
 - B. There shall be a minimum of ten feet between units.
 - 2. For lots of record created after the effective date of the Lee County's 1962 zoning regulations but prior to the effective date of the County's 1968 zoning regulations:⁸⁵⁴
 - A. The minimum lot area per unit shall be not less than 2,800 square feet;
 - B. The minimum lot width shall be 40 feet; and
 - C. The minimum setbacks from all lot lines shall be five feet, and between units or appurtenances thereto they shall be ten feet.
 - 3. For lots of record created after the effective date of Lee County's 1968 zoning regulations but prior to the effective date of the county's 1973 zoning regulations:⁸⁵⁵
 - A. Minimum lot areas shall be:
 - 1. For mobile homes on central sewer, 3,750 square feet;
 - 2. For mobile homes on individual septic systems, 7,500 square feet; and
 - 3. For recreational vehicles, 1,200 square feet.
 - B. From a street right-of-way, ten feet;
 - C. From a rear lot line, ten feet;
 - D. From side lot lines, five feet or a minimum of ten feet between units; and
 - E. From the park perimeter, 15 feet.

⁸⁵² This carries forward Sec. 33-1207 of the transitional LDC.

⁸⁵³ This carries forward Sec. 33-1207 of the transitional LDC.

⁸⁵⁴ This carries forward Sec. 33-1207 of the transitional LDC.

⁸⁵⁵ This carries forward Sec. 33-1207 of the transitional LDC.

- B. For lots of record created after the effective date of Lee County's 1973 zoning regulations but prior to the effective date of the county's 1978 zoning regulations:
1. Minimum lot areas shall be:
 - A. For mobile homes on central sewer, 4,000 square feet; and
 - B. For recreational vehicles on approved septic systems, 1,200 square feet.
 2. Minimum setbacks for both mobile homes and recreational vehicles shall be:
 - A. From a street right-of-way, ten feet;
 - B. From a rear lot line, ten feet;
 - C. From side lot lines, five feet or a minimum of ten feet between units; and
 - D. From the park perimeter, 15 feet.
- C. For lots of record created after the effective date of Lee County's 1978 zoning regulations but prior to the effective date of this LDC:
1. Minimum lot areas shall be:⁸⁵⁶
 - A. In the MH-1 district, 7,500 square feet;
 - B. In the MH-2 district, 5,000 square feet;
 - C. In the MH-3 district, 21,000 square feet;
 - D. In the MH-4 district, 40,000 square feet; and
 - E. In the RV district, 2,000 square feet.
 2. Minimum setbacks shall be as set forth in the Lee County 1978 zoning regulations.
- D. (A) through (E), above, do not limit the regulation of uniform fire safety standards established by the Village.

SECTION 9-6. NONCONFORMING SCREENING AND BUFFERING⁸⁵⁹

9-601. DISCONTINUANCE

Parcels with nonconforming screening or buffers shall come into compliance with the minimum buffer requirements of this LDC when the use of the parcel is discontinued for a period of six calendar months.

9-602. EXPANSION OR PRIOR TO ISSUANCE OF A DEVELOPMENT ORDER OR LIMITED DEVELOPMENT ORDER

Parcels with nonconforming screening or buffers shall come into compliance with the minimum buffer requirements and architectural standards of this LDC when the use or structure is expanded.

9-603. NORMAL REPAIRS AND MAINTENANCE DO NOT TRIGGER COMPLIANCE

Issuance of development permits for normal repairs and maintenance of structures, including, but not limited to, repair or replacement of roof covering, structural walls, fixtures, wiring or plumbing, shall not trigger compliance with the minimum buffer requirements.

SECTION 9-7. NONCONFORMITIES CREATED BY EMINENT DOMAIN PROCEEDINGS OR VOLUNTARY DONATION OF LAND FOR PUBLIC PURPOSE⁸⁶⁰

9-701. GENERAL

A structure, lot, or parcel of land that has been or will be rendered nonconforming as to area, width, depth, setbacks, lot coverage, or parking because of a taking through eminent domain proceedings, by


⁸⁵⁹ This carries forward Sec. 33-1207 of the transitional LDC.

⁸⁵⁹ This carries forward Sec. 33-1207 of the transitional LDC.

⁸⁶⁰ This carries forward Sec. 34-3206 of the transitional LDC.

the voluntary sale of a parcel of land under the threat of eminent domain proceedings by a governmental authority, or by the voluntary donation of land to a governmental authority, shall be deemed conforming only for the items affected by the eminent domain action.

9-702. ADMINISTRATIVE VARIANCE

An administrative variance procedure is available to address improved parcels or parcels with approved development orders that have been rendered nonconforming or have been rendered unable to comply with current regulations as to signs, required landscape buffers, and open space because of a taking through eminent domain proceedings, by the voluntary sale of a parcel of land under the threat of eminent domain proceedings by a governmental authority, or by the voluntary donation of land to a governmental authority. The procedures to address the nonconformities referenced in this subsection are set forth in Sec. 2. .⁸⁶¹

SECTION 9-8. USES APPROVED BY SPECIAL EXCEPTION OR PERMIT⁸⁶²

Uses approved by special exception or other permits which were issued or granted by the Lee County Board of County Commissioners before December 31, 2014, which do not comply with the requirements of this LDC or any amendments thereto, shall be considered to be nonconforming uses and subject to the provisions of this chapter.

⁸⁶¹ See Section 34-268 of the transitional LDC.

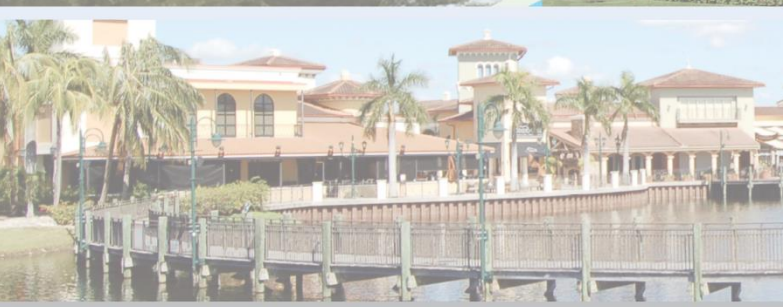
⁸⁶² This carries forward Sec. 34-3205 of the transitional LDC, with refinements to clarify language.



Village of
ESTERO

Land Development Code Appendices

REVIEW DRAFT – NOVEMBER 16 2020



MODULE 2B IN BOLD

APPENDIX A: Use Table

APPENDIX B: EPD District Framework Plan

APPENDIX C: General Road Specifications

APPENDIX D: Illustrations and Cross-Sections

APPENDIX E: Piping Materials

APPENDIX F: Recommend Plant Lists

APPENDIX G: Protected Tree List

APPENDIX H: Protected Species List

APPENDIX I: Wellfield Protection Zone Map

APPENDIX A: USE TABLE

USE TABLE PERMISSIONS ABBREVIATIONS

Zoning district use tables applicable for principal and accessory uses apply the following abbreviations to designate whether and how a use is allowed in the particular zoning district:

- P A “P” under a zoning district column indicates that the use is allowable as a principal or accessory use (as appropriate) in the district, subject to any referenced use-specific standards and all other applicable regulations of this LDC.
- S An “S” under a zoning district column indicates that the use is allowable as a principal use in the district only on approval of a special exception in accordance with Sec. 2-501.E, Special Exception, and subject to any referenced use-specific standards and all other applicable regulations of this LDC.
- E An “E” under a zoning district column indicates that the use is allowable as a principal use in the district only if it is already existing on [*insert effective date of LDC*], and subject to any referenced use-specific standards and all other applicable regulations of this LDC.
A blank cell under a zoning district column indicates that the use is prohibited as either a principal use, special exception, or accessory use in the zoning district.

USE TABLE REFERENCE TO STANDARDS SPECIFIC TO USES

A use may be subject to additional standards that are specific to the particular use. The applicability of such use-specific standards is noted in the last column of the use table by reference to the standard which is located in Chapter 4: Use Specific Standards.

APPENDIX B: EPD DISTRICT FRAMEWORK PLAN



APPENDIX E: PIPING MATERIALS¹⁶⁴⁰

TABLE D: APPROVED PIPING MATERIALS FOR USE IN RIGHTS-OF-WAY						
Type of Utility Line	Concrete	Plastic Type	DI	Steel	Aluminum	HDPE
Lines in Traveled Way						
Water	No	Yes [2]	Yes [2]	No	No	Yes [2]
Sewer force main	No	Yes [2] [4]	Yes [2]	No	No	Yes [2]
Sewer gravity main	No	Yes [2]	No	No	No	No
Reuse main	No	Yes [2]	Yes [2]	No	No	Yes [2]
Stormwater drain	Yes	Yes [3] [5]	No	No	No	Yes [3] [5]
Utility conduit	Yes	Yes [2]	Yes	Yes	Yes	Yes [1]
Lines in Right-of-Way						
Water	No	Yes [3] [9]	Yes [2]	No	No	Yes [2]
Sewer force main	No	Yes [2] [4]	Yes [2]	No	No	Yes [2]
Sewer gravity main	No	Yes [2]	No	No	No	No
Reuse main	No	Yes [2]	Yes [2]	No	No	Yes [2]
Stormwater drain	Yes	Yes [3]	No	Yes [1] [8]	Yes [4]	Yes [3]
Utility conduit	Yes	Yes [1]	Yes	Yes	Yes	Yes [1]
Lines in Drainage Easement						
Stormwater	Yes	No	No	Yes [4]	Yes [4]	No
NOTES:						
[1] Encased in concrete, if in banks more than one layer; otherwise, SDR 26, ASTM 2241 or DR 25 AWWA C 900, DR17 HDPE, or thicker.						
[2] In accordance with the LCU Design Manual requirements or all requirements, specifications, and design manual of the utility service area provider (including all casing pipe requirements), whichever is more stringent.						
[3] In compliance with the latest edition of the FDOT Standards for Road and Bridge Construction and related indexes, including, but not limited to, supplemental specifications, Standard Modifications and approved materials list.						
[4] Not on Village-maintained roads.						
[5] Not on Village-maintained Arterial or Collector roads.						

¹⁶⁴⁰ This carries forward the table from Sec. 10-716 from the transitional LDC.

APPENDIX F: RECOMMENDED PLANT LISTS

Table F-1: Recommended Shade Trees

Table F-2: Recommended Ornamental Trees

Table F-3: Recommended Palms

Table F-4: Recommended Shrubs

Table F-5: Recommended Groundcovers

Table F-6: Recommended Vines

Table F-7: Recommended Grasses








TABLE F-1: RECOMMENDED SHADE TREES		
(*) in Common Name field and Green Shading = Native		
Common Name	Botanical Name	Photo
Black Olive 'Shady Lady'*	Bucida buceras 'Shady Lady'	
Dahoon Holly*	Illex cassinne	
Gumbo Limbo*	Bursera simaruba	
Southern Red Cedar*	Juniperus silicicola	
Wild Tamarind*	Lysiloma bahamensis	[no picture]
Royal Poinciana	Delonix regia	
Laurel Oak*	Quercus laurifolia	[no picture]
Live Oak*	Quercus virginiana	
Red Stopper*	Eugenia rhombea	
Long-Leaf Pine*	Pinus palutris	[no picture]








TABLE F-1: RECOMMENDED SHADE TREES		
(*) in Common Name field and Green Shading = Native		
Common Name	Botanical Name	Photo
South Florida Slash Pine*	<i>Pinus elliotii</i> var <i>densa</i>	
Sycamore*	<i>Plantus occidentalis</i>	
Pond Cypress*	<i>Taxodium ascendens</i>	[no picture]
Bald Cypress*	<i>Taxodium distichum</i>	
Jacaranda	<i>Jacaranda mimosifolia</i>	
Trumpet Tree	<i>Tabebuia</i> spp.	
Sweetgum*	<i>Liquidambar styraciflua</i>	
East Palatka Holly*	<i>Ilex x attenuata</i>	[no picture]
Green Buttonwood*	<i>Conocarpus erecta</i>	
Sweet Acacia	<i>Acacia farnesiana</i>	[no picture]

TABLE F-1: RECOMMENDED SHADE TREES		
(*) in Common Name field and Green Shading = Native		
Common Name	Botanical Name	Photo
Southern Magnolia*	Magnolia grandiflora	
Pigeon Plum*	Coccoloba diversifolia	
Cypress*	Cupressus spp.	
American Elm *	Ulmus americana	
Red Maple*	Acer rubrum	
Sweetbay*	Magnolia virginiana	
Short-leaf Fig*	Ficus citrifolia	
Red Mulberry*	Morus rubra	

TABLE F-1: RECOMMENDED SHADE TREES (*) in Common Name field and Green Shading = Native		
Common Name	Botanical Name	Photo
Pond Apple*	Annona glabra	
Iron Wood*	Carpinus caroliniana	
White Mangrove*	Laguncularia racemosa	
West Indian Mahogany*	Swietenia mahogoni	
Red Mangrove*	Rhizophora mangle	
Coastal-Plain Willow*	Salix caroliniana	
Paradis Tree*	Simarouba glauca	
Loblolly Bay*	Gordonia lasianthus	



TABLE F-1: RECOMMENDED SHADE TREES (*) in Common Name field and Green Shading = Native		
Common Name	Botanical Name	Photo
Hackberry*	Celtis laevigata	
American Elm*	Ulmus americana	

TABLE F-2: RECOMMENDED ORNAMENTAL TREES		
(*) in Common Name Field and Green Shading = Native		
Common Name	Botanical Name	Photo
Weeping Yaupon Holly*	Ilex vomitoria 'Pendula'	[no picture]
Hong Kong Orchid Tree	Bauhinia blakeana	[no picture]
Silk Floss Tree	Chorisia speciose	
Jamaica Dogwood*	Piscidia piscipula	[no picture]
Desert Cassia	Senna polyphylla	
Dahoon Holly	Ilex cassine	
Geiger Tree	Cordia sebestena	
Bottlebrush	Callistemon spp.	
Loquat	Eriobotrya japonica	
Japanese Fern Tree	Filicium decipiens	[no picture]
Crape Myrtle	Lagerstroemia indica	
Queens Crape Myrtle	Lagerstroemia speciosa	

TABLE F-3: RECOMMENDED PALMS		
(*) in Common Name Field and Green Shading = Native		
Common Name	Botanical Name	Photo
Silver Palm	<i>Coccothrinax argentata</i>	[no picture]
Coconut Palm	<i>Cocos nucifera</i>	
Macarthur Palm	<i>Ptychosperma macarthurii</i>	[no picture]
European Fan Palm	<i>Chamaerops humilis</i>	
Bismarck Palm	<i>Bismarckia nobilis</i>	
Montgomery Palm	<i>Veitchia montgomeryana</i>	
Piccabean palm	<i>Archontophoenix cunninghamiana</i>	[no picture]
Pindo Palm	<i>Butia odorata</i>	
Arikury palm	<i>Syagrus schizophylla</i>	
Chinese Fan Palm	<i>Livistona chinensis</i>	
Canary Island Date Palm	<i>Phoenix canariensis</i>	
'Medjool' Date Palm	<i>Phoenix dactylifera medjool</i>	[no picture]

TABLE F-3: RECOMMENDED PALMS		
(*) in Common Name Field and Green Shading = Native		
Common Name	Botanical Name	Photo
'Sylvestris' Date Palm	Phoenix dactylifera sylvestris	
Hybrid Clumping Date Palm	Phoenix reclinata x roebelenii	[no picture]
Pygmy Date Palm	Phoenix roebelenii	
Lady Palm	Rhapis excelsa	
Travelers Palm	Ravenala madagascariensis	
Florida Royal Palm*	Roystonea regia	
Sabal Palm*	Sabal palmetto	
Saw Palmetto*	Serenoa spp.	
Florida Thatch Palm*	Thrinax radiata	
Windmill Palm	Trachycarpus fortunei	



TABLE F-3: RECOMMENDED PALMS		
(*) in Common Name Field and Green Shading = Native		
Common Name	Botanical Name	Photo
Foxtail Palm	Wodyetia bifurcata	
Paurotis Palm*	Acoelorrhaphe wrightii	


TABLE F-4: RECOMMENDED SHRUBS		
(*) in Common Name Field and Green Shading = Native		
Common Name	Botanical Name	Photo
Green Buttonwood	Conocarpus erecta	
Jamaica Caper	Capparis cynophallophora	
Florida Privet*	Forestiera segregata	[no picture]
Sea Grape*	Coccoloba uvifera	
Small Leaf Clusia	Clusia guttifera	
Silver Buttonwood*	Conocarpus erectus var. sericeus	
Japanese Privet	Ligustrum japonicum	
Starburst	Clerodendron quadriloculare	
Elephant Ear	Colocasia esculenta	
Copper Leaf	Acalypha wilkesiana	
Blue Plumbago	Plumbago auriculata	
Croton	Codiaeum variegatum	
Golden Dewdrop	Duranta erecta	

TABLE F-4: RECOMMENDED SHRUBS		
(*) in Common Name Field and Green Shading = Native		
Common Name	Botanical Name	Photo
African Lily	Agapanthus orientalis	
Bird-of-Paradise	Strelitzia spp.	
Leather Fern*	Acrostichum daneifolium	[no picture]
Coco Plum*	Chrysobalanus icaco	
Yellow Jasmine	Jasminum fruticans	[no picture]
Dwarf Boxwood	Buxus sempervirens suffruticosa	[no picture]
Viburnum*	Viburnum spp.	
Ginger	Alpinia spp.	
Bougainvillea	Bougainvillea spp.	
Powderpuff	Calliandra haematocephala	
Beauty Bush*	Callicarpa americana	
Natal Plum	Carissa macrocarpa	
Dwarf Oleander	Nerium oleander	
Cast Iron Plant	Aspidistra elatior	[no picture]
Schefflera	Schefflera spp.	

TABLE F-4: RECOMMENDED SHRUBS		
(*) in Common Name Field and Green Shading = Native		
Common Name	Botanical Name	Photo
Firecracker	Russelia equisetiformis	
Agave*	Agave spp.	
Crinum Lily	Crinum spp.	
Firebush*	Hamelia patens	
Thyallis	Galphimia gracilis	
Wax Myrtle*	Myrica cerifera	
Crepe Jasmine	Tabernaemontana divaricata	
Simpson's Stopper*	Myrcianthes fragrans 'simsonii'	[no picture]
'Xanadu' Philodendron	Philodendron spp.	
Coontie*	Zamia floridana	
Spanish Stopper*	Eugenia myrtoides	[no picture]
Gladiolus	Gladiolus hortalanus	[no picture]
Crown of Thorns	Euphorbia millii	
Gardenia	Gardenia spp.	[no picture]
Hibiscus	Hibiscus rosasinensis	

TABLE F-4: RECOMMENDED SHRUBS		
(*) in Common Name Field and Green Shading = Native		
Common Name	Botanical Name	Photo
Dwarf Yaupon Holly*	Ilex vomitoria	
Ixora	Ixora spp.	
Jasmine	Jasminum spp.	
Parson's Juniper	Juniperus chinensis 'Parsonii'	
Macho Fern*	Nephrolepis Faleata	
Podocarpus	Podocarpus spp.	
Wild Coffee *	Psychotria nervosa	
Glory Bush	Tibouchina spp.	[no picture]
Cardboard Palm	Zamia furfuracea	
Yellow Elder	Tecoma stans	
White snapper*	Eugenia axillaris	
Ironwood*	Eugenia confusa	
Tallowood*	Ximenia americana	


TABLE F-4: RECOMMENDED SHRUBS		
(*) in Common Name Field and Green Shading = Native		
Common Name	Botanical Name	Photo
Cherry Laurel*	Prunus caroliniana	













TABLE F-5: RECOMMENDED GROUNDCOVERS		
(*) in Common Name Field and Green Shading = Native		
Common Name	Botanical Name	Photo
Lantana	Lantana spp	
Dusty Miller	Centaurea gymnocarpa	[no picture]
Confederate Jasmine	Trachelusperrum jasminiodes	
Creeping Juniper	Juniperus horizontalis	
Perennial Peanut	Arachis glabrata	
Liriope	Lily Turf	
Wart Fern	Microsorium scolopendrium	
Beach Sunflower*	Helianthus debilis	
Blue Flag Iris*	Iris hexagona savannarum	
Egyptian Star Clusters	Pentas	[no picture]
Asparagus Fern	Asparagus densiflorus	
Holly Fern	Cytromium falcatum	
Blue Porterweed	Stachytarpheta jamaicensis	
Yellow Canna*	Canna flaccida	




TABLE F-5: RECOMMENDED GROUNDCOVERS		
(*) in Common Name Field and Green Shading = Native		
Common Name	Botanical Name	Photo
Fountain Grass	Pennisetum spp.	
Jasmine	Jasminum spp.	
Fern	Nephrolepis spp.	








TABLE F-6: RECOMMENDED VINES		
(*) in Common Name Field and Green Shading = Native		
Common Name	Botanical Name	Photo
Carolina Jessamine	Gelsemium sempervirens	
Confederate Jasmine	Trachelospermum jasminoides	
Coral Honeysuckle*	Lonicera sempervirens	[no picture]

TABLE F-7: RECOMMENDED GRASSES		
(*) in Common Name Field and Green Shading = Native		
Common Name	Botanical Name	Photo
Fakahatchee Grass*	Tripsacum floridana	
Muhly Grass*	Muhlenbergia capillaris	
Sand Cord Grass*	Spartina bakeri	
Soft Rush*	Juncus effusus	
Water Lily*	Nymphaea spp.	[no picture]
Arrowhead*	Sagittaria spp.	
Arrowroot*	Thalia geniculata	[no picture]

APPENDIX G: PROTECTED TREE LIST

TABLE G: PROTECTED TREE LIST	
Family Name	
Scientific Name	Common Name
ACERACEAE (MAPLE FAMILY)	
Acer rubrum	Red Maple
ANACARDIACEAE (CASHEW FAMILY)	
Rhus copallina	Southern Sumac
ANNONACEAE (CUSTARD-APPLE FAMILY)	
Annona glabra	Southern Sumac
AQUIFOLOIACEAE (HOLLY FAMILY)	
Ilex cassine	Dahoon Holly
AREACACEAE (PALM FAMILY)	
Coccothrinax argentata	Silver Palm
Cocos nucifera	Coconut Palm
Roystonea elata	Florida Royal Palm
Sabal palmetto	Cabbage Palm
AVICENNIACEAE (BLACK MANGROVE FAMILY)	
Avicennia germinans	Black Mangrove
BETULACEAE (BIRCH FAMILY)	
Carpinus caroliniana	Iron Wood
BURSERACEAE (TORCHWOOD FAMILY)	
Bursera simaruba	Geiger Tree
CAPPARACEAE (CAPER FAMILY)	
Capparis cynophallophora	Jamaica Caper
COMBRETACEAE (WHITE MANGROVE FAMILY)	
Bucida buceras	Black Olive
Conocarpus erecta	Buttonwood
Laguncularia racemosa	White Mangrove
CORNACEAE (DOGWOOD FAMILY)	
Cornus foemina	Swamp Dogwood
CUPRESSACEAE (CYPRESS FAMILY)	
Juniperus silicicola	Southern Red Cedar
EBENACEAE (EBONY FAMILY)	
Diospyros virginiana	Persimmon
FABACEAE (PEA FAMILY)	
Acacia farnesiana	Sweet Acacia
Lysiloma bahamensis	Wild Tamarind
Piscidia piscipula	Jamaica Dogwood
Pithecellobium unguis-cati	Cat Claw
FAGACEAE (OAK FAMILY)	
Quercus chapmani	Chapman Oak
Quercus incana	Bluejack Oak
Quercus laevis	Turkey Oak
Quercus laurifolia	Laurel Oak

TABLE G: PROTECTED TREE LIST	
Family Name	
Scientific Name	Common Name
<i>Quercus myrtifolia</i>	Myrtle Oak
<i>Quercus nigra</i>	Water Oak
<i>Quercus virginiana</i>	Live Oak
<i>Quercus virginiana geminata</i>	Sand Live Oak
HAMAMELIDACEAE (WITCH-HAZEL FAMILY)	
<i>Liquidambar styraciflua</i>	Sweet Gum
JUGLANDACEAE (WALNUT AND HICKORY FAMILY)	
<i>Carya aquatica</i>	Water Hickory
<i>Carya glabra</i>	Pignut Hickory
LAURACEAE (LAUREL FAMILY)	
<i>Persea borbonia</i>	Red Bay
<i>Persea palustris</i>	Swamp Bay
MAGNOLIACEAE (MAGNOLIA FAMILY)	
<i>Magnolia grandiflora</i>	Southern Magnolia
<i>Magnolia virginiana</i>	Sweetbay
MELIACEAE FAMILY (MAHOGANY FAMILY)	
<i>Swietenia mahogoni</i>	West Indian Mahogany
MORACEAE (MULBERRY FAMILY)	
<i>Ficus aurea</i>	Strangler Fig
<i>Ficus citrifolia</i>	Short-leaf Fig
<i>Morus rubra</i>	Red Mulberry
MYRTACEAE (MYRTLE FAMILY)	
<i>Eugenia axillaris</i>	White Snapper
<i>Eugenia confusa</i>	Ironwood
<i>Eugenia rhombea</i>	Red Stopper
<i>Eugenia myrtoides</i>	Spanish Stopper
<i>Myrcianthes fragans</i>	Simpson Stopper
NYSSACEAE (SOUR GUM FAMILY)	
<i>Nyssa sylvatica</i>	Black Gum/Black Tupelo
OLACACEAE (XIMENIA FAMILY)	
<i>Ximenia Americana</i>	Tallowood
OLEACEAE (OLIVE FAMILY)	
<i>Forestiera segregata</i>	Florida Privet
<i>Fraxinus caroliniana</i>	Pop Ash
PINACEAE (PINE FAMILY)	
<i>Pinus elliottii</i> var <i>densa</i>	South Florida Slash Pine
<i>Pinus palustris</i>	Long-leaf Pine
PLATANACEAE (SYCAMORE FAMILY)	
<i>Platanus occidentalis</i>	Sycamore
POLYGONACEAE (BUCKWHEAT FAMILY)	
<i>Coccoloba diversifolia</i>	Pigeon Plum
<i>Coccoloba uvifera</i>	Sea Grape
RHIZOPHORACEAE (RED MANGROVE FAMILY)	
<i>Rhizophora mangle</i>	Red Mangrove

TABLE G: PROTECTED TREE LIST	
Family Name	
Scientific Name	Common Name
ROSACEAE (ROSE FAMILY)	
Prunus caroliniana	Cherry Laurel
RUTACEAE (RUE FAMILY)	
Zanthoxylum clava-herculis	Hercules Club
SALICACEAE (WILLOW FAMILY)	
Salix caroliniana	Coastal-Plain Willow
SAPOTACEAE (SAPODILLA FAMILY)	
Bumelia celastrina	Buckthorn/Saffon Plum
Bumelia tenax	Buckthorn/Tough Bumelia
Chrysophyllum oliviforme	Satinleaf
Mastichodendron foetidissimum	Mastic
SIMAROUBACEAE (QUASSIA FAMILY)	
Simarouba glauca	Paradise Tree
TAXODIACEAE (BALD CYPRESS FAMILY)	
Taxodium ascendens	Pond Cypress
Taxodium distichum	Bald Cypress
THEACEAE (CAMELIA FAMILY)	
Gordonia lasianthus	Loblolly Bay
THEOPHRASTACEAE (JOEWOOD FAMILY)	
Jacquinia keyensis	Joewood
ULMACEAE (ELM FAMILY)	
Celtis laevigata	Hackberry
Ulmus americana	American Elm

APPENDIX H: PROTECTED SPECIES LIST

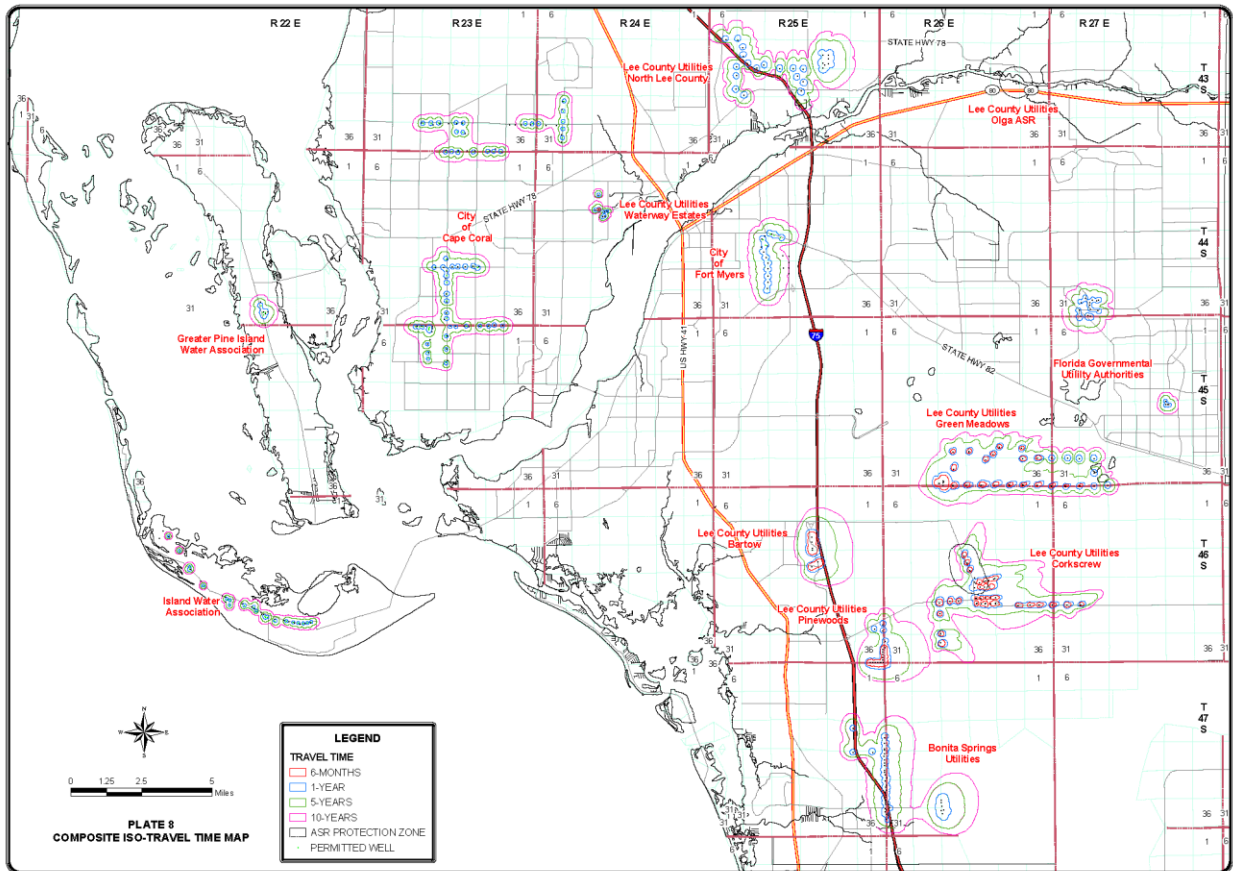
TABLE H: PROTECTED SPECIES LIST							
Scientific Name	Common Name	FLUCFCS ¹⁶⁴¹	Month Beginning	Month Ending	Rec. Buffer Guideline (Feet)	Buffer For	Aspects to be Included in Survey
Reptile**							
Alligator mississippiensis	American alligator	500 series, 610, 621, 630, 641, 653	N/A	N/A	500	Nest	Nests, sunning areas
Crocodylus acutus	American crocodile	642, 651	N/A	N/A	500	Nests	Nests, sunning areas
Drymarchon corais couperi	Eastern indigo snake	320 series, 411, 412, 414, 421, 425, 426, 427, 428	N/A	N/A	150	Gopher tortoise burrows	Burrows, feeding
Gopherus polyphemus	Gopher tortoise	320 series, 411, *412, 421, 426, 427, 432, 743	N/A	N/A	150	Burrows	Burrows, feeding
Rana areolata	Gopher frog	320 series, 411, 412, 421, 426, 560, 620, 630	N/A	N/A	150	Gopher tortoise burrows	Burrows, feeding paths to wetlands
Bird**							
Ajaia ajaja	Roseate spoonbill	500 series, 612, 642, 652, 653, 654	N/A	N/A	250	Feeding	Feeding
Aphelocoma coerulescens coerulescens	Florida scrub jay	412, 421, 432	N/A	N/A	500	Nest	Feeding, nests
Aramus guarauna	Limpkin	500 series, 617, 621, 630, 641, 643	N/A	N/A	150	Nests	Feeding (harbor apple snails), nests
Athene cunicularia floridana	Burrowing owl	191, 192, 310	N/A	N/A	150	Burrows	Burrows
Charadrius alexandrinus tenirostris	Southeastern snowy plover	651, 652, 710	N/A	N/A	250	Nests	Nests, feeding
Charadrius melodus	Piping plover	651, 652, 710	Dec.	May	250	Nests	Nest, feeding
Egretta caerulea	Little blue heron	500 series, 600 series	N/A	N/A	250	Nests	Nests, feeding

¹⁶⁴¹ FLUCFCS is a more natural abbreviation for FLUCCS also used by the state

TABLE H: PROTECTED SPECIES LIST							
Scientific Name	Common Name	FLUCFCS ¹⁶⁴¹	Month Beginning	Month Ending	Rec. Buffer Guideline (Feet)	Buffer For	Aspects to be Included in Survey
<i>Egretta rufescens</i>	Reddish egret	500 series, 610, 640, 650	N/A	N/A	250	Nests	Nests, feeding
<i>Egretta thula</i>	snowy egret	500 series, 600 series	N/A	N/A	250	Nests	Nests, feeding
<i>Egretta tricolor</i>	Tricolored heron	500 series, 600 series	N/A	N/A	250	Nests	Nests, feeding
<i>Falco peregrinus tundrius</i>	Arctic peregrine falcon	620, 650	Sept.	April	150	Feeding	Feeding
<i>Falco sparverius paulus</i>	Southeastern American kestrel	321, 411, 435	March	July	500	Nests	Nests, feeding
<i>Grus canadensis pratensis</i>	Florida sandhill crane	(211, 212)**, 310, 321, 641	N/A	N/A	500	Nests	Nests, feeding
<i>Haematopus palliatus</i>	American oystercatcher	651, 652, 645, 710	N/A	N/A	250	Nests	Nests, feeding
<i>Mycteria americana</i>	Wood stork	560, 610, 621, 630, 640, 650	N/A	N/A	500	Nests	Nests, feeding
<i>Pelecanus occidentalis</i>	Brown pelican	612, 650	N/A	N/A	250	Nests	Nests
<i>Picoides borealis</i>	Red-cockaded woodpecker	411	N/A	N/A	750	Nests	Nests, feeding
<i>Polyborus plancus audubonii</i>	Audobon's crested caracara	321, 428	N/A	N/A	750	Nests	Nests, feeding
<i>Rostrhamus sociabilis</i>	Snail kite	520, 641, 643	N/A	N/A	250	Feeding	Feeding (harbor apple snails areas)
<i>Sterna antillarum</i>	Least tern	191, 261, 651, 652	April	Sept.	250	Nests	Nests, feeding
<i>Sterna douballii</i>	Roseate tern	651, 652, 710	Jan.	April	250	Feeding	Feeding
Mammal**							
<i>Felis concolor coryi</i>	Florida panther	(211)***, 212, 411, 414, 425, 427, 428, 434, 617, 621, 624, 630	N/A	N/A	750	Dens	Dens, feeding
<i>Mustela vison evergladensis</i>	Everglades mink	500 series, 620, 630, 641, 643	N/A	N/A	250	Dens	Dens, feeding

TABLE H: PROTECTED SPECIES LIST							
Scientific Name	Common Name	FLUCFCS ¹⁶⁴¹	Month Beginning	Month Ending	Rec. Buffer Guideline (Feet)	Buffer For	Aspects to be Included in Survey
<i>Sciurus niger avicennia</i>	Big Cypress fox squirrel	411, 610, 620	N/A	N/A	125	Nests	Nests, feeding
<i>Ursus americanus floridanus</i>	Florida black bear	321, 411, 414, 425, 427, 428, 438, 612, 617, 621, 624, 630	N/A	N/A	750	Dens	Dens, feeding
Plant**							
<i>Asclepias curtissii</i>	Curtis milkweed	320 series	N/A	N/A	10	Plant	Sighting
<i>Burmannia flava</i>	Fakahatchee burmannia	320 series, 411, 412	N/A	N/A	10	Plant	Sighting
<i>Celtis iguanaea</i>	Iguana hackberry	322, 426	N/A	N/A	10	Plant	Sighting
<i>Celtis pallida</i>	Spiny hackberry	322, 426	N/A	N/A	10	Plant	Sighting
<i>Cereus gracillis</i>	Prickly-apple	322, 426, 612	N/A	N/A	10	Plant	Sighting
<i>Chrysophyllum olivaeforme</i>	Satinleaf	411, 426	N/A	N/A	10	Plant	Sighting
<i>Deeringothamnus pulchellus</i>	Beautiful pawpaw	321, 411	N/A	N/A	10	Plant	Sighting
<i>Eragrostis tracyi</i>	Sanibel love grass	710	N/A	N/A	10	Plant	Sighting
<i>Erondia littoralis</i>	Golden creeper	322	N/A	N/A	10	Plant	Sighting
<i>Gossypium hirsutum</i>	Wild cotton	611	N/A	N/A	10	Plant	Sighting
<i>Jacquina keyensis</i>	Joewood	322, 426	N/A	N/A	10	Plant	Sighting
<i>Myrcianthes fragrans</i> var. <i>simpsonii</i>	Simpon's stopper	427, 428	N/A	N/A	10	Plant	Sighting
<i>Ophioglossum palmatum</i>	Hand adder's tongue fern	427	N/A	N/A	10	Plant	Sighting
<i>Tillandsia flexuosa</i>	Twisted air plant	426, 427, 610	N/A	N/A	10	Plant	Sighting
<i>Zamia floridana</i>	Florida coontie	320 series, 411, 412, 421, 426	N/A	N/A	10	Plant	Sighting
<p>NOTES:</p> <p>*Mesic and xeric 411 only.</p> <p>**Only when associated with vegetated nonforested wetlands.</p> <p>***Only when associated with large adjacent woodlands.</p>							

APPENDIX I: WELLFIELD PROTECTION ZONE MAP¹⁶⁴²



¹⁶⁴² This carries forward Appendix N from the transitional LDC.